

AMENDED IN ASSEMBLY JUNE 15, 2004

AMENDED IN SENATE APRIL 15, 2004

AMENDED IN SENATE APRIL 12, 2004

SENATE BILL

No. 1546

Introduced by Senator Figueroa

February 19, 2004

An act to amend Sections 1601.1, 1616.5, ~~and 1742~~ 1621, 1670.1, 1680, 1721, 1741, 1742, 4999.2, and 4999.7 of, to amend and repeal Sections 1753.5, 1754, ~~1756, 1757, and 1760~~ and 1756 of, to amend, repeal, and add Sections 1725, 1741, 1750, 1751, 1752, 1753, ~~1765~~, and 1770 of, ~~and to add Sections 1750.1, 1750.2, 1750.3, 1752.5, 1753.1, 1776, and 1777 to~~ and 1777 to, to add Article 9 (commencing with Section 1900) to Chapter 4 of Division 2 of, to repeal Sections 1760, 1760.5, 1761, 1762, 1763, 1764, 1765, 1766, 1772, 1774, 1775, and 1901 of, to repeal and add Section 1757 of, the Business and Professions Code, ~~relating to dentistry~~ to amend Section 44876 of the Education Code, to amend Section 1348.8 of the Health and Safety Code, and to amend Section 14132 of the Welfare and Institutions Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1546, as amended, Figueroa. Dentistry.

Existing law, the Dental Practice Act, provides for the licensure and regulation of the practice of dentistry by the Dental Board of California, and authorizes the board to appoint a person exempt from civil service as an executive officer. Existing law also establishes the Committee on Dental Auxiliaries within the jurisdiction of the board. The provisions establishing the board, authorizing the board to appoint an executive

officer, and establishing the committee are repealed as of January 1, 2006.

This bill would ~~change these dates to unspecified dates~~ instead make those provisions inoperative on July 1, 2009, and repeal them on January 1, 2010.

Existing law requires the board to license persons meeting specified requirements ~~as dental assistants and dental assistants in extended functions~~ *various types of dental auxiliaries*, and requires the board to enact certain regulations with respect to those licensees. Existing law also describes the functions that those licensees are permitted to perform and imposes specified requirements on them. Existing law prohibits a dentist from utilizing more than 2 dental auxiliaries in extended functions. *Under existing law, fees collected in connection with the practice of a dental auxiliary are deposited into the State Dental Auxiliary Fund, which is continuously appropriated.*

This bill would, on January 1, 2007, revise the requirements imposed on, and the functions that may be performed by, a dental assistant or a dental assistant in extended functions. The bill would also, on and after January 1, 2007, require the board to license a person who meets specified requirements as a registered dental assistant, registered orthodontic assistant, registered surgery assistant, registered restorative assistant, registered dental assistant in extended functions, or registered restorative assistant in extended functions.

This bill would require the board to adopt regulations regarding education and training requirements that those licensees and registered dental hygienists are required to meet and procedures they may perform. The bill would also require the board to report periodically to the Joint Legislative Sunset Review Committee regarding the regulations imposed on licensees. The bill, on and after January 1, 2007, would authorize a dentist to utilize up to 3 dental auxiliaries in extended functions. The bill would also make other related changes.

Because this bill would increase the licensing fees deposited into the State Dental Auxiliary Fund, a continuously appropriated fund, it would make an appropriation.

This bill would, on July 1, 2007, create the California Dental Hygiene Board, and would establish specific criteria for licensure by the board of a registered dental hygienist or of a registered dental hygienist in alternative practice. The bill would set forth the California Dental Hygiene Board's functions, including approving education programs and continuing education requirements for a registered

dental hygienist and a registered dental hygienist in alternative practice. The bill would make the provisions establishing the board inoperative on July 1, 2011, and repeal them on January 1, 2012. The bill would also create the State Dental Hygiene Fund and would require that fees paid by licensees be deposited into the fund. The bill would continuously appropriate moneys in the fund to the board to carry out the purposes of the bill. The bill would require a transfer of a specified amount into the fund from the State Dental Auxiliary Fund.

This bill would specify acts that would constitute unprofessional conduct, and would also specify acts that would constitute crimes.

Because a violation of certain provisions of the bill would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1601.1 of the Business and Professions
- 2 Code is amended to read:
- 3 1601.1. (a) There shall be in the Department of Consumer
- 4 Affairs the Dental Board of California in which the administration
- 5 of this chapter is vested. The board shall consist of eight practicing
- 6 dentists, one registered dental hygienist, one registered dental
- 7 assistant, and four public members. Of the eight practicing
- 8 dentists, one shall be a member of a faculty of any California dental
- 9 college and one shall be a dentist practicing in a nonprofit
- 10 community clinic. The appointing powers, described in Section
- 11 1603, may appoint to the board a person who was a member of the
- 12 prior board. The board shall be organized into standing
- 13 committees dealing with examinations, enforcement, and other
- 14 subjects as the board deems appropriate.
- 15 (b) For purposes of this chapter, any reference in this chapter
- 16 to the Board of Dental Examiners shall be deemed to refer to the
- 17 Dental Board of California.



(c) The board shall have all authority previously vested in the existing board under this chapter. The board may enforce all disciplinary actions undertaken by the previous board.

(d) This section shall become inoperative on July 1, ~~2009~~, and, as of January 1, ~~2010~~, is repealed, unless a later enacted statute that is enacted before January 1, ~~2010~~, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 2. Section 1616.5 of the Business and Professions Code is amended to read:

1616.5. (a) The board, by and with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall become inoperative on July 1, ~~2009~~, and, as of January 1, ~~2010~~, is repealed, unless a later enacted statute that is enacted before January 1, ~~2010~~, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. *Section 1621 of the Business and Professions Code is amended to read:*

1621. The board shall utilize in the administration of its licensure examinations only examiners whom it has appointed and who meet the following criteria:

(a) Possession of a valid license to practice dentistry in this state or possession of a valid license in one of the following ~~dental auxiliary~~ categories: registered dental assistant, registered dental assistant in extended functions, registered dental hygienist, registered dental hygienist in extended functions, or registered dental hygienist in alternative practice.

(b) Practice as a licensed dentist or in a ~~dental auxiliary~~ licensure category *described in subdivision (a)* for at least five years preceding his or her appointment.

(c) Hold no position as an officer or faculty member at any college, school, or institution that provides dental instruction in the same licensure category as that held by the examiner.

SEC. 4. *Section 1670.1 of the Business and Professions Code is amended to read:*

1670.1. (a) Any licentiate under this chapter may have his or her license revoked or suspended or be reprimanded or be placed on probation by the board for conviction of a crime substantially related to the qualifications, functions, or duties of a dentist~~or~~, dental auxiliary, *or dental hygienist*, in which case the record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

(b) The board shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related to the qualifications, functions, or duties of a dentist~~or~~, dental auxiliary, *or dental hygienist* is deemed to be a conviction within the meaning of this section. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing~~such~~ *the* person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 5. *Section 1680 of the Business and Professions Code is amended to read:*

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, the violation of any one of the following:

- (a) The obtaining of any fee by fraud or misrepresentation.
- (b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.
- (c) The aiding or abetting of any unlicensed person to practice dentistry.
- (d) The aiding or abetting of a licensed person to practice dentistry unlawfully.
- (e) The committing of any act or acts of gross immorality substantially related to the practice of dentistry.

1 (f) The use of any false, assumed, or fictitious name, either as
2 an individual, firm, corporation, or otherwise, or any name other
3 than the name under which he or she is licensed to practice, in
4 advertising or in any other manner indicating that he or she is
5 practicing or will practice dentistry, except that name as is
6 specified in a valid permit issued pursuant to Section 1701.5.

7 (g) The practice of accepting or receiving any commission or
8 the rebating in any form or manner of fees for professional
9 services, radiograms, prescriptions, or other services or articles
10 supplied to patients.

11 (h) The making use by the licentiate or any agent of the
12 licentiate of any advertising statements of a character tending to
13 deceive or mislead the public.

14 (i) The advertising of either professional superiority or the
15 advertising of performance of professional services in a superior
16 manner. This subdivision shall not prohibit advertising permitted
17 by subdivision (h) of Section 651.

18 (j) The employing or the making use of solicitors.

19 (k) The advertising in violation of Section 651.

20 (l) The advertising to guarantee any dental service, or to
21 perform any dental operation painlessly. This subdivision shall not
22 prohibit advertising permitted by Section 651.

23 (m) The violation of any of the provisions of law regulating the
24 procurement, dispensing, or administration of dangerous drugs, as
25 defined in ~~Article 7 Chapter 9~~ (commencing with Section 4211)
26 ~~of Chapter 9 4000~~, or controlled substances, as defined in
27 Division 10 (commencing with Section 11000) of the Health and
28 Safety Code.

29 (n) The violation of any of the provisions of this division.

30 (o) The permitting of any person to operate dental radiographic
31 equipment who has not met the requirements of Section 1656.

32 (p) The clearly excessive prescribing or administering of drugs
33 or treatment, or the clearly excessive use of diagnostic procedures,
34 or the clearly excessive use of diagnostic or treatment facilities, as
35 determined by the customary practice and standards of the dental
36 profession.

37 Any person who violates this subdivision is guilty of a
38 misdemeanor and shall be punished by a fine of not less than one
39 hundred dollars (\$100) or more than six hundred dollars (\$600),

1 or by imprisonment for a term of not less than 60 days or more than
2 180 days, or by both a fine and imprisonment.

3 (q) The use of threats or harassment against any patient or
4 licentiate for providing evidence in any possible or actual
5 disciplinary action, or other legal action; or the discharge of an
6 employee primarily based on the employee's attempt to comply
7 with the provisions of this chapter or to aid in the compliance.

8 (r) Suspension or revocation of a license issued, or discipline
9 imposed, by another state or territory on grounds which would be
10 the basis of discipline in this state.

11 (s) The alteration of a patient's record with intent to deceive.

12 (t) Unsanitary or unsafe office conditions, as determined by the
13 customary practice and standards of the dental profession.

14 (u) The abandonment of the patient by the licentiate, without
15 written notice to the patient that treatment is to be discontinued and
16 before the patient has ample opportunity to secure the services of
17 another dentist *or dental hygienist* and provided the health of the
18 patient is not jeopardized.

19 (v) The willful misrepresentation of facts relating to a
20 disciplinary action to the patients of a disciplined licentiate.

21 (w) Use of fraud in the procurement of any license issued
22 pursuant to this chapter.

23 (x) Any action or conduct ~~which~~ *that* would have warranted the
24 denial of the license.

25 (y) The aiding or abetting of a licensed dentist ~~or~~, dental
26 auxiliary, *or dental hygienist* to practice dentistry in a negligent or
27 incompetent manner.

28 (z) The failure to report to the board in writing within seven
29 days any of the following: (1) the death of his or her patient during
30 the performance of any dental *or dental hygiene* procedure; (2) the
31 discovery of the death of a patient whose death is related to a dental
32 *or dental hygiene* procedure performed by him or her; or (3) except
33 for a scheduled hospitalization, the removal to a hospital or
34 emergency center for medical treatment for a period exceeding 24
35 hours of any patient to whom oral conscious sedation, conscious
36 sedation, or general anesthesia was administered, or any patient as
37 a result of dental *or dental hygiene* treatment. With the exception
38 of patients to whom oral conscious sedation, conscious sedation,
39 or general anesthesia was administered, removal to a hospital or
40 emergency center that is the normal or expected treatment for the

1 underlying dental condition is not required to be reported. Upon
2 receipt of a report pursuant to this subdivision the board may
3 conduct an inspection of the dental office if the board finds that it
4 is necessary.

5 (aa) Participating in or operating any group advertising and
6 referral services that are in violation of Section 650.2.

7 (bb) The failure to use a fail-safe machine with an appropriate
8 exhaust system in the administration of nitrous oxide. The board
9 shall, by regulation, define what constitutes a fail-safe machine.

10 (cc) Engaging in the practice of dentistry *or dental hygiene*
11 with an expired license.

12 (dd) Except for good cause, the knowing failure to protect
13 patients by failing to follow infection control guidelines of the
14 board, thereby risking transmission of blood-borne infectious
15 diseases from dentist ~~or~~, dental auxiliary, *or dental hygienist* to
16 patient, from patient to patient, and from patient to dentist ~~or~~,
17 dental auxiliary, *or dental hygienist*. In administering this
18 subdivision, the board shall consider referencing the standards,
19 regulations, and guidelines of the State Department of Health
20 Services developed pursuant to Section 1250.11 of the Health and
21 Safety Code and the standards, guidelines, and regulations
22 pursuant to the California Occupational Safety and Health Act of
23 1973 (Part 1 (commencing with Section 6300); *of Division 5; of*
24 *the Labor Code*) for preventing the transmission of HIV, hepatitis
25 B, and other blood-borne pathogens in health care settings. As
26 necessary, the board shall consult with the Medical Board of
27 California, the *California* Board of Podiatric Medicine, the Board
28 of Registered Nursing, and the Board of Vocational Nursing and
29 Psychiatric Technicians, to encourage appropriate consistency in
30 the implementation of this subdivision.

31 The board shall seek to ensure that licentiates and others
32 regulated by the board are informed of the responsibility of
33 licentiates and others to follow infection control guidelines, and of
34 the most recent scientifically recognized safeguards for
35 minimizing the risk of transmission of blood-borne infectious
36 diseases.

37 (ee) The utilization by a licensed dentist of any person to
38 perform the functions of a registered dental assistant, registered
39 dental assistant in extended functions, registered dental hygienist,
40 or registered dental hygienist in extended functions who, at the

time of initial employment, does not possess a current, valid license to perform those functions.

SEC. 6. Section 1721 of the Business and Professions Code is amended to read:

1721. Except as provided in ~~Section~~ Sections 1721.5 and 1945, all funds received by the State Treasurer under the authority of this chapter shall be placed in the State Dentistry Fund. Except as provided in ~~Section~~ Sections 1721.5 and 1945, all disbursements by the board made in the transaction of its business and in the enforcement of this chapter shall be paid out of the fund upon claims against the state.

SEC. 7. Section 1725 of the Business and Professions Code is amended to read:

1725. The amount of the fees prescribed by this chapter that relate to the licensing of dental auxiliaries shall be established by board resolution and subject to the following limitations:

(a) The application fee for an original license shall not exceed twenty dollars (\$20).

(b) The fee for examination for licensure as a registered dental assistant shall not exceed fifty dollars (\$50) for the written examination and shall not exceed sixty dollars (\$60) for the practical examination.

(c) The fee for examination for licensure as a registered dental assistant in extended functions shall not exceed two hundred fifty dollars (\$250).

~~(d) The fee for examination for licensure as a registered dental hygienist shall not exceed two hundred twenty dollars (\$220).~~

~~(e) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed two hundred fifty dollars (\$250).~~

~~(f) The board shall establish the fee at an amount not to exceed actual cost for licensure as a registered dental hygienist in alternative practice.~~

~~(g)~~

(e) The biennial renewal fee for a dental auxiliary whose license expires on or after January 1, 1991, shall not exceed sixty dollars (\$60). On or after January 1, 1992, the board may set the renewal fee in an amount not to exceed eighty dollars (\$80).

~~(h)~~

(f) The delinquency fee shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee.

~~(i)~~

(g) The fee for issuance of a duplicate registration, license, or certificate to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars (\$25).

~~(j)~~

(h) The fee for each curriculum review and site evaluation for educational programs for registered dental assistants ~~which~~ *that* are not accredited by a board-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed one thousand four hundred dollars (\$1,400).

~~(k)~~

(i) The fee for each curriculum review and site evaluation for radiation safety courses that are not accredited by a board approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed three hundred dollars (\$300).

~~(l)~~

(j) No fees or charges other than those listed in subdivisions (a) through ~~(k)~~ (i) above shall be levied by the board in connection with the licensure of dental auxiliaries, registered dental assistants educational program site evaluations and radiation safety course site evaluations pursuant to this chapter.

~~(m)~~

(k) Fees fixed by the board pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

~~(n)~~

(l) Fees collected pursuant to this section shall be deposited in the State Dental Auxiliary Fund.

(m) This section shall become inoperative on December 31, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. *Section 1725 is added to the Business and Professions Code, to read:*

1725. *The amount of the fees prescribed by this chapter that relate to the licensing of dental auxiliaries shall be established by board resolution and subject to the following limitations:*

(a) *The application fee for an original license shall not exceed twenty dollars (\$20).*

(b) *The fee for issuance of a license as a registered orthodontic assistant, registered surgery assistant, registered restorative assistant, or registered dental assistant shall not exceed thirty dollars (\$30).*

(c) *The fee for examination for licensure as a registered dental assistant in extended functions or a registered restorative assistant in extended functions shall not exceed two hundred fifty dollars (\$250).*

(d) *The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed two hundred fifty dollars (\$250).*

(e) *The biennial renewal fee for a dental auxiliary whose license expires on or after January 1, 1991, shall not exceed sixty dollars (\$60). On or after January 1, 1992, the board may set the renewal fee in an amount not to exceed eighty dollars (\$80).*

(f) *The delinquency fee shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee.*

(g) *The fee for issuance of a duplicate registration, license, or certificate to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars (\$25).*

(h) *The fee for each curriculum review and site evaluation for educational programs for registered dental assistants which are not accredited by a board-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed one thousand four hundred dollars (\$1,400).*

(i) *The fee for each curriculum review and site evaluation for radiation safety courses or specialty registration educational programs that are not accredited by a board approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed three hundred dollars (\$300).*

(j) *No fees or charges other than those listed in subdivisions (a) to (i), inclusive, shall be levied by the board in connection with the licensure of dental auxiliaries, registered dental assistants educational program site evaluations and radiation safety course site evaluations pursuant to this chapter.*

(k) *Fees fixed by the board pursuant to this section shall not be subject to the approval of the Office of Administrative Law.*

(l) *Fees collected pursuant to this section shall be deposited in the State Dental Auxiliary Fund.*

(m) *This section shall become operative on January 1, 2007.*

SEC. 9. Section 1741 of the Business and Professions Code is amended to read:

1741. As used in this article:

(a) “Board” means the Dental Board of California.

(b) “Committee” means the Committee on Dental Auxiliaries.

(c) “Direct supervision” means supervision of dental procedures based on instructions given by a licensed dentist, who must be physically present in the treatment facility during the performance of those procedures.

(d) “General supervision” means supervision of dental procedures based on instructions given by a licensed dentist but not requiring the physical presence of the supervising dentist during the performance of those procedures.

(e) “Dental auxiliary” means a person who may perform dental assisting or dental hygiene procedures authorized by this article. Dental auxiliary also means a registered dental hygienist in alternative practice, who may provide authorized services by prescription provided by a dentist or physician and surgeon licensed to practice in this state. “Dental auxiliary” includes all of the following:

(1) A dental assistant pursuant to Section 1750.

(2) A registered dental assistant pursuant to Section 1753.

(3) A registered dental assistant in extended functions pursuant to Section 1756.

(4) A registered dental hygienist pursuant to Section 1766.

(5) A registered dental hygienist in extended functions pursuant to Section 1768.

(6) A registered dental hygienist in alternative practice pursuant to Section 1774.

(f) This section shall become inoperative on December 31, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 4.~~

SEC. 10. Section 1741 is added to the Business and Professions Code, to read:

1741. As used in this article the following terms have the following meanings:

(a) “Board” means the Dental Board of California.

(b) “Committee” means the Committee on Dental Auxiliaries.

(c) “Direct supervision” means supervision of dental procedures based on instructions given by a licensed dentist, who must be physically present in the treatment facility during the performance of those procedures.

(d) “General supervision” means supervision of dental procedures based on instructions given by a licensed dentist but not requiring the physical presence of the supervising dentist during the performance of those procedures.

(e) “Dental auxiliary” means a person who may perform dental assisting or dental hygiene procedures authorized by this article. ~~Dental auxiliary also means a registered dental hygienist in alternative practice, who may provide authorized services by prescription provided by a dentist or physician and surgeon licensed to practice in this state. “Dental auxiliary” includes all of the following:~~

~~(1) A dental assistant pursuant to Section 1750.~~

~~(2) A registered orthodontic assistant, a registered surgery assistant, a registered restorative assistant, or a registered dental assistant pursuant to Section 1750.2.~~

~~(3) A registered restorative dental assistant in extended functions pursuant to Section 1752.~~

~~(4) A registered dental assistant in extended functions pursuant to Section 1752.~~

~~(5) A registered dental hygienist pursuant to Section 1766.~~

~~(6) A registered dental hygienist in extended functions pursuant to Section 1768.~~

~~(7) A registered dental hygienist in alternative practice pursuant to Section 1774. article.~~

(f) This section shall become operative on January 1, 2007.

1 ~~SEC. 5.~~

2 *SEC. 11.* Section 1742 of the Business and Professions Code
3 is amended to read:

4 1742. (a) There is within the jurisdiction of the board a
5 Committee on Dental Auxiliaries.

6 (b) The Committee on Dental Auxiliaries shall have the
7 following areas of responsibility and duties:

8 (1) The committee shall have the following duties and
9 authority related to education programs and curriculum:

10 (A) Shall evaluate all dental auxiliary programs applying for
11 board approval in accordance with board rules governing the
12 programs.

13 (B) May appoint board members to any evaluation committee.
14 Board members so appointed shall not make a final decision on the
15 issue of program or course approval.

16 (C) Shall report and make recommendations to the board as to
17 whether a program or course qualifies for approval. The board
18 retains the final authority to grant or deny approval to a program
19 or course.

20 (D) Shall review and document any alleged deficiencies that
21 might warrant board action to withdraw or revoke approval of a
22 program or course, at the request of the board.

23 (E) May review and document any alleged deficiencies that
24 might warrant board action to withdraw or revoke approval of a
25 program or course, at its own initiation.

26 (2) The committee shall have the following duties and
27 authority related to applications:

28 (A) Shall review and evaluate all applications for licensure in
29 the various dental auxiliary categories to ascertain whether a
30 candidate meets the appropriate licensing requirements specified
31 by statute and board regulations.

32 (B) Shall maintain application records, cashier application
33 fees, and perform any other ministerial tasks as are incidental to
34 the application process.

35 (C) May delegate any or all of the functions in this paragraph
36 to its staff.

37 (D) Shall issue auxiliary licenses in all cases, except where
38 there is a question as to a licensing requirement. The board retains
39 final authority to interpret any licensing requirement. If a question



1 arises in the area of interpreting any licensing requirement, it shall
2 be presented by the committee to the board for resolution.

3 (3) The committee shall have the following duties and
4 authority regarding examinations:

5 (A) Shall advise the board as to the type of license examination
6 it deems appropriate for the various dental auxiliary license
7 categories.

8 (B) Shall, at the direction of the board, develop or cause to be
9 developed, administer, or both, examinations in accordance with
10 the board's instructions and periodically report to the board on the
11 progress of those examinations. The following shall apply to the
12 examination procedure:

13 (i) The examination shall be submitted to the board for its
14 approval prior to its initial administration.

15 (ii) Once an examination has been approved by the board, no
16 further approval is required unless a major modification is made
17 to the examination.

18 (iii) The committee shall report to the board on the results of
19 each examination and shall, where appropriate, recommend pass
20 points.

21 (iv) The board shall set pass points for all dental auxiliary
22 licensing examinations.

23 (C) May appoint board members to any examination
24 committee established pursuant to subparagraph (B).

25 (4) The committee shall periodically report and make
26 recommendations to the board concerning the level of fees for
27 dental auxiliaries and the need for any legislative fee increase.
28 However, the board retains final authority to set all fees.

29 (5) The committee shall be responsible for all aspects of the
30 license renewal process, which shall be accomplished in
31 accordance with this chapter and board regulations. The
32 committee may delegate any or all of its functions under this
33 paragraph to its staff.

34 (6) The committee shall have no authority with respect to the
35 approval of continuing education providers; the board retains all
36 of this authority.

37 (7) The committee shall advise the board as to appropriate
38 standards of conduct for auxiliaries, the proper ordering of
39 enforcement priorities, and any other enforcement-related matters
40 that the board may, in the future, delegate to the committee. The

1 board shall retain all authority with respect to the enforcement
2 actions, including, but not limited to, complaint resolution,
3 investigation, and disciplinary action against auxiliaries.

4 (8) The committee shall have the following duties regarding
5 regulations:

6 (A) To review and evaluate all suggestions or requests for
7 regulatory changes related to dental auxiliaries.

8 (B) To report and make recommendations to the board, after
9 consultation with departmental legal counsel and the board's
10 executive officer.

11 (C) To include in any report regarding a proposed regulatory
12 change, at a minimum, the specific language of the proposed
13 changes and the reasons for and facts supporting the need for the
14 change. The board has the final rulemaking authority.

15 (c) This section shall become inoperative on July 1, ~~2009~~,
16 and, as of January 1, ~~2010~~, is repealed, unless a later enacted
17 statute which becomes effective on or before January 1, ~~2010~~,
18 deletes or extends the dates on which it becomes inoperative
19 and is repealed. The repeal of this section renders the committee
20 subject to the review required by Division 1.2 (commencing with
21 Section 473).

22 ~~SEC. 6.~~

23 *SEC. 12.* Section 1750 of the Business and Professions Code
24 is amended to read:

25 1750. (a) A dental assistant is a person who may perform
26 basic supportive dental procedures as authorized by this article
27 under the supervision of a licensed dentist and who may perform
28 basic supportive procedures as authorized pursuant to subdivision
29 (b) of Section 1751 under the supervision of a registered dental
30 hygienist in alternative practice.

31 (b) This section shall become inoperative on December 31,
32 2006, and, as of January 1, 2007, is repealed, unless a later enacted
33 statute, that is enacted before January 1, 2007, deletes or extends
34 the dates on which it becomes inoperative and is repealed.

35 ~~SEC. 7.~~

36 *SEC. 13.* Section 1750 is added to the Business and
37 Professions Code, to read:

38 1750. (a) A dental assistant is an individual who, without a
39 license, may perform basic supportive dental procedures, as
40 authorized by this article and the board pursuant to this article by

1 *regulations adopted by the board*, under the supervision of a
 2 licensed dentist. “Basic supportive dental procedures” are those
 3 procedures that have technically elementary characteristics, are
 4 completely reversible, and are unlikely to precipitate potentially
 5 hazardous conditions for the patient being treated. These basic
 6 supportive dental procedures may be performed under general
 7 supervision. These basic supportive dental procedures do not
 8 include those procedures authorized in Section 1750.2 or Section
 9 ~~1753.2~~ 1753.1, or by the board pursuant to Section 1751 *for*
 10 *registered assistants*.

11 (b) The supervising licensed dentist shall be responsible for
 12 determining the competency of the dental assistant to perform
 13 ~~authorized and approved~~ the basic supportive dental procedures.

14 (c) The supervising licensed dentist shall be responsible for
 15 assuring that each dental assistant, registered orthodontic
 16 assistant, registered surgery assistant, registered restorative dental
 17 assistant, registered dental assistant, and registered dental assistant
 18 in extended functions, who is in his or her continuous employ for
 19 120 days or more, has completed the following ~~courses~~ *within that*
 20 *time period*:

21 ~~(1) A course in patient protection, consisting of infection~~
 22 ~~control procedures and other relevant California law that is~~
 23 ~~approved by the board.~~

24 (1) *Board approved courses in infection control and California*
 25 *law.*

26 (2) A *course in* basic life support ~~course~~ offered by the
 27 American Red Cross, the American Heart Association, or any
 28 other course approved by the board as equivalent.

29 (3) Prior to operating radiographic equipment or applying for
 30 ~~registration~~ *licensure* as a registered dental assistant under Section
 31 1750.2, a radiation safety course approved by the board.

32 (d) This section shall become operative on January 1, 2007.

33 ~~SEC. 8.~~

34 *SEC. 14.* Section 1750.1 is added to the Business and
 35 Professions Code, to read:

36 1750.1. (a) The practice of dental assisting does not include
 37 any of the following procedures:

38 (1) Diagnosis and comprehensive treatment planning.

39 (2) Placing, finishing, or removing permanent restorations,
 40 except as provided in Section ~~1753.2~~ 1753.1.

(3) Surgery or cutting on hard and soft tissue including, but not limited to, the removal of teeth and the cutting and suturing of soft tissue.

(4) Prescribing medication.

(5) Starting or adjusting local or general anesthesia or oral or parenteral conscious sedation, except for the administration of nitrous oxide and oxygen, whether administered alone or in combination with each other and except as otherwise provided in this article.

(b) This section shall become operative on January 1, 2007.

~~SEC. 9:~~

~~SEC. 15.~~ Section 1750.2 is added to the Business and Professions Code, to read:

1750.2. (a) The board shall license as a “registered orthodontic assistant,” “registered surgery assistant,” or “registered restorative assistant,” or “registered dental assistant” any person who submits written evidence of satisfactory completion of a course or courses approved by the board pursuant to subdivision (e) (b) that qualifies him or her in one of those these specialty areas of practice, as described in this section. practice.

(b) The board shall adopt regulations for the approval of licensing program curricula and training postsecondary specialty registration programs in the specialty and registered dental assisting areas specified in this section.

(c) ~~The board~~ The regulations shall define the minimum education and training requirements necessary to achieve proficiency in the procedures appropriate to each specialty module listed in subdivision (a), authorized for each specialty registration, taking into account the combinations of classroom and practical instruction, clinical training, and supervised work experience that are most likely to provide the greatest number of opportunities for improving dental assisting skills efficiently.

(d) ~~A registered orthodontic assistant may perform all of the following dental procedures, consistent with regulations adopted pursuant to Section 1751:~~

(1) ~~Any duties that a dental assistant may perform.~~

(2) ~~Placing and removing orthodontic separators.~~

(3) ~~Placing and removing ligatures and arch wires.~~

(4) ~~Taking orthodontic impressions.~~

~~(5) Sizing, fitting, adjusting, prepositioning, curing in a position approved by the supervising dentist, and removal of orthodontic bands and brackets.~~

~~(6) Coronal polishing.~~

~~(7) Removing excess cement from supragingival surfaces of teeth.~~

~~(8) Preparing teeth for bonding.~~

~~(9) Activating bleaching agents with nonlaser, light-curing devices.~~

~~(e) A registered surgery assistant may perform the following dental procedures, consistent with regulations adopted pursuant to Section 1751:~~

~~(1) Any duties that a dental assistant may perform.~~

~~(2) Monitoring of patients during the preoperative, intraoperative, and postoperative phases, using noninvasive instrumentation such as pulse oximeters, electrocardiograms, and capnography.~~

~~(3) Taking impressions for surgical splints and occlusal guards.~~

~~(4) Placement and removal of surgical dressings and removal of sutures.~~

~~(5) Adding medications to intravenous lines, in the presence of a licensed dentist.~~

~~(6) Removal of intravenous lines.~~

~~(f) A registered restorative assistant may perform all of the following dental procedures, consistent with regulations adopted pursuant to Section 1751:~~

~~(1) Sizing, fitting, adjusting, intraorally fabricating, temporarily cementing, and removing temporary crowns.~~

~~(2) Placing bases and liners on sound dentin.~~

~~(3) Removing excess cement from supragingival surfaces of teeth.~~

~~(4) Taking facebow transfers and bite registrations for diagnostic models for case study only.~~

~~(5) Taking impressions for space-maintaining appliances and occlusal guards.~~

~~(6) Coronal polishing.~~

~~(7) Applying pit and fissure sealants.~~

~~(8) Placing and removing temporary restorations.~~

~~(9) Activating bleaching agents with nonlaser, light-curing devices.~~

~~(g) A registered dental assistant may perform all duties and procedures that a dental assistant, a registered orthodontic assistant, a registered surgery assistant, and a registered restorative assistant may perform, consistent with regulations adopted pursuant to Section 1751.~~

~~(h) The supervising dentist shall be responsible for determining the level of supervision required for assistants registered pursuant to this section.~~

~~(i) A person who holds a license as a registered orthodontic assistant, registered surgery assistant, or registered restorative assistant shall be subject to continuing education requirements established by the board pursuant to Section 1645 and the renewal requirements of Article 6 (commencing with Section 1715).~~

~~(j) A person who holds a license as a registered orthodontic assistant, a registered surgery assistant, and a registered restorative assistant, and who satisfies applicable continuing education requirements established by the board pursuant to Section 1645, is qualified to apply for, and shall be licensed as, a registered dental assistant. A person holding a license as a registered dental assistant shall be subject to the renewal requirements of Article 6 (commencing with Section 1715).~~

~~(k)~~

~~(c) A person who holds a specialty registration pursuant to this section shall be subject to the continuing education requirements established by the board pursuant to Section 1645 and the renewal requirements of Article 6 (commencing with Section 1900).~~

~~(d) This section shall become operative on January 1, 2007.~~

~~SEC. 10.~~

SEC. 16. Section 1750.3 is added to the Business and Professions Code, to read:

1750.3. (a) A registered orthodontic assistant may perform all of the following dental procedures, as well as those authorized by board regulations adopted pursuant to Section 1751:

(1) Any duties that a dental assistant may perform.

(2) Placing and removing orthodontic separators.

(3) Placing and removing ligatures and arch wires.

(4) Taking orthodontic impressions.

(5) Sizing, fitting, adjusting, prepositioning, curing in a position approved by the supervising dentist, and removal of orthodontic bands and brackets.

- 1 (6) *Coronal polishing.*
- 2 (7) *Removing excess cement from supragingival surfaces of*
- 3 *teeth.*
- 4 (8) *Preparing teeth for bonding.*
- 5 (9) *Activating bleaching agents with nonlaser, light-curing*
- 6 *devices.*
- 7 (10) *Removal of excess cement from coronal surfaces of teeth*
- 8 *under orthodontic treatment by means of an ultrasonic scaler.*
- 9 (b) *A registered surgery assistant may perform the following*
- 10 *dental procedures, as well as those authorized by board*
- 11 *regulations adopted pursuant to Section 1751:*
- 12 (1) *Any duties that a dental assistant may perform.*
- 13 (2) *Monitoring of patients during the preoperative,*
- 14 *intraoperative, and postoperative phases, using noninvasive*
- 15 *instrumentation such as pulse oximeters, electrocardiograms, and*
- 16 *capnography.*
- 17 (3) *Taking impressions for surgical splints and occlusal guards.*
- 18 (4) *Placement and removal of surgical dressings and removal*
- 19 *of sutures.*
- 20 (5) *Adding medications to intravenous lines, in the presence of*
- 21 *a licensed dentist.*
- 22 (6) *Removal of intravenous lines.*
- 23 (c) *A registered restorative assistant may perform all of the*
- 24 *following dental procedures, as well as those authorized by board*
- 25 *regulations adopted pursuant to Section 1751:*
- 26 (1) *Sizing, fitting, adjusting, intraorally fabricating,*
- 27 *temporarily cementing, and removing temporary crowns.*
- 28 (2) *Placing bases and liners on sound dentin.*
- 29 (3) *Removing excess cement from supragingival surfaces of*
- 30 *teeth.*
- 31 (4) *Taking facebow transfers and bite registrations for*
- 32 *diagnostic models for case study only.*
- 33 (5) *Taking impressions for space-maintaining appliances and*
- 34 *occlusal guards.*
- 35 (6) *Coronal polishing.*
- 36 (7) *Applying pit and fissure sealants.*
- 37 (8) *Placing and removing temporary restorations.*
- 38 (9) *Activating bleaching agents with nonlaser, light-curing*
- 39 *devices.*



1 (d) *The supervising dentist shall be responsible for determining*
2 *the level of supervision required for assistants registered pursuant*
3 *to this section.*

4 (e) *This section shall become operative on January 1, 2007.*

5 SEC. 17. Section 1751 of the Business and Professions Code
6 is amended to read:

7 1751. (a) By September 15, 1993, the board, upon
8 recommendation of the committee, consistent with this article,
9 standards of good dental practice, and the health and welfare of
10 patients, shall adopt regulations relating to the functions that may
11 be performed by dental assistants under direct or general
12 supervision, and the settings within which dental assistants may
13 work. At least once every seven years thereafter, the board shall
14 review the list of functions performable by dental assistants, the
15 supervision level, and settings under which they may be
16 performed, and shall update the regulations as needed to keep them
17 current with the state of the practice.

18 (b) Under the supervision of a registered dental hygienist in
19 alternative practice, a dental assistant may perform intraoral
20 retraction and suctioning.

21 (c) This section shall become inoperative on December 31,
22 2006, and, as of January 1, 2007, is repealed, unless a later enacted
23 statute, that is enacted before January 1, 2007, deletes or extends
24 the dates on which it becomes inoperative and is repealed.

25 ~~SEC. 18.~~

26 SEC. 18. Section 1751 is added to the Business and
27 Professions Code, to read:

28 1751. (a) The board shall adopt regulations governing the
29 procedures that dental assistants, registered orthodontic assistants,
30 registered surgery assistants, registered restorative assistants,
31 registered dental assistants, registered restorative assistants in
32 extended functions, and registered dental assistants in extended
33 functions are authorized to perform consistent with the provisions
34 of this article, and the settings within which each may practice.

35 (b) The board shall conduct an initial review of the procedures,
36 supervision level, settings under which they may be performed,
37 and utilization of extended functions dental auxiliaries by January
38 1, 2011. The board shall submit the results of its review to the Joint
39 Legislative Sunset Review Committee. After the initial review, a
40 review shall be conducted at least once every five to seven years

thereafter and the board shall update regulations as necessary to keep them current with the state of dental practice.

(c) This section shall become operative on January 1, 2007.

~~SEC. 12.~~

SEC. 19. Section 1752 of the Business and Professions Code is amended to read:

1752. (a) The supervising licensed dentist shall be responsible for determining the competency of the dental assistant to perform allowable functions.

(b) This section shall become inoperative on December 31, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 13.~~

SEC. 20. Section 1752 is added to the Business and Professions Code, to read:

1752. (a) A “registered dental assistant in extended functions” is an individual licensed pursuant to this article who ~~may perform all dental procedures authorized by Section 1750 and subdivision (g) of Section 1750.2, and by the board pursuant to Section 1753.1, and who may provide basic restorative services and direct patient care~~ *may perform basic restorative services and direct patient care, as authorized by Sections 1750, 1750.3, and 1753.1, and by the board regulations adopted pursuant to Section 1751* under the supervision of a licensed dentist.

(b) A “registered restorative assistant in extended functions” is an individual licensed pursuant to this article who may perform ~~all dental procedures authorized by Section 1750, subdivision (f) of Section 1750.2, and by the board pursuant to this article, and who may provide basic restorative services, as authorized by Section 1753.1 and by the board pursuant to this article, under the basic restorative services and direct patient care, as authorized by Section 1750, subdivision (c) of Section 1750.3, and Section 1753.2, and by board regulations adopted pursuant to Section 1751~~ under the supervision of a licensed dentist.

(c) This section shall become operative on January 1, 2007.

~~SEC. 14.~~

SEC. 21. Section 1752.5 is added to the Business and Professions Code, to read:

1 1752.5. (a) A person may apply for and be issued a license as
2 a Registered Dental Assistant upon providing evidence to the
3 board of one of the following:

4 (1) Successful completion of a board-approved educational
5 program in registered dental assisting.

6 (2) Successful completion of:

7 (A) Twelve months of satisfactory work experience as a dental
8 assistant in California or another state. The board shall give credit
9 toward the 12 months of work experience to persons who have
10 graduated from a dental assisting program in a postsecondary
11 institution, secondary institution, regional occupational center, or
12 regional occupation program that are not approved by the board.
13 The credit shall equal the total weeks spent in classroom training
14 and internship on a week-for-week basis not to exceed 16 weeks.

15 (B) The three board-approved specialty registration programs,
16 as defined in Section 1750.2, for registration as a registered
17 orthodontic assistant, registered surgery assistant, and registered
18 restorative assistant.

19 (C) A board-approved radiation safety program.

20 (b) A registered dental assistant may perform all duties and
21 procedures that a dental assistant, registered orthodontic
22 assistant, registered surgery assistant, and a registered restorative
23 assistant are allowed to perform, as well as those procedures
24 authorized by regulations adopted pursuant to Section 1751,
25 except that a registered dental assistant licensed on or before
26 December 31, 2006, may only apply pit and fissure sealants if he
27 or she has provided evidence to the board of having completed a
28 board-approved course in the application of pit and fissure
29 sealants.

30 (c) The supervising dentist shall be responsible for determining
31 the level of supervision required for authorized procedures
32 performed by registered dental assistants.

33 (d) This section shall become operative on January 1, 2007.

34 SEC. 22. Section 1753 of the Business and Professions Code
35 is amended to read:

36 1753. (a) The board shall license as a registered dental
37 assistant a person who submits written evidence, satisfactory to the
38 board, of either one of the following requirements:

39 (1) Graduation from an educational program in dental assisting
40 approved by the board, and satisfactory performance on a written

1 examination required by the board. On and after January 1, 1984,
2 an applicant seeking licensure as a registered dental assistant
3 pursuant to this subdivision shall provide evidence of his or her
4 satisfactory performance on a written and practical examination
5 required by the board.

6 (2) Satisfactory work experience of more than 12 months as a
7 dental assistant in California or another state and satisfactory
8 performance on a written and practical examination required by
9 the board. The board shall give credit toward the 12 months work
10 experience referred to in this subdivision to persons who have
11 graduated from a dental assisting program in a postsecondary
12 institution approved by the Department of Education or in a
13 secondary institution, regional occupational center, or regional
14 occupational program, that are not, however, approved by the
15 board pursuant to subdivision (a). The credit shall equal the total
16 weeks spent in classroom training and internship on a
17 week-for-week basis not to exceed 16 weeks. The board, in
18 cooperation with the Superintendent of Public Instruction, shall
19 establish the minimum criteria for the curriculum of
20 nonboard-approved programs. Additionally, the board shall notify
21 those programs only if the program's curriculum does not meet
22 established minimum criteria, as established for board-approved
23 registered dental assistant programs, except any requirement that
24 the program be given in a postsecondary institution. Graduates of
25 programs not meeting established minimum criteria shall not
26 qualify for satisfactory work experience as defined by this section.

27 (b) This section shall become inoperative on December 31,
28 2006, and, as of January 1, 2007, is repealed, unless a later enacted
29 statute, that is enacted before January 1, 2007, deletes or extends
30 the dates on which it becomes inoperative and is repealed.

31 ~~SEC. 15.~~

32 *SEC. 23.* Section 1753 is added to the Business and
33 Professions Code, to read:

34 1753. (a) The board shall license as a registered dental
35 assistant in extended functions a person who submits written
36 evidence, satisfactory to the board, of ~~either~~ *all* of the following:

37 ~~(1) That he or she has completed all of the following~~
38 ~~requirements:~~

39 ~~(A) Has graduated from an educational program in dental~~
40 ~~assisting approved by the board that provides training in registered~~

1 ~~dental assisting and all of the procedures specified in Section~~
2 ~~1750.2.~~

3 ~~(B) Has successfully completed a postsecondary program~~
4 ~~approved by the board in all of the procedures specified in Section~~
5 ~~1753.1 that includes didactic, laboratory, and clinical modalities.~~

6 ~~(C) Has achieved satisfactory performance on a written~~
7 ~~examination and a clinical or practical examination required by the~~
8 ~~board.~~

9 ~~(2) That he or she meets all of the following requirements:~~

10 ~~(A) Has satisfactory work experience of more than eight~~
11 ~~months as a dental assistant in California or another state, as~~
12 ~~required by the board.~~

13 ~~(B) Has graduated from an educational program in dental~~
14 ~~assisting approved by the board that provides training in registered~~
15 ~~dental assisting and all of the procedures specified in Section~~
16 ~~1750.2.~~

17 ~~(C) Has successfully completed board-approved courses in~~
18 ~~radiation safety, infection control, California dental law, and a~~
19 ~~basic life support course approved by the board.~~

20 ~~(D) Has successfully completed a postsecondary program~~
21 ~~approved by the board in all of the procedures specified in Section~~
22 ~~1753.1 that includes didactic, laboratory, and clinical modalities.~~

23 ~~(E) Has achieved satisfactory performance on a written~~
24 ~~examination and a clinical or practical examination required by the~~
25 ~~board.~~

26 ~~(1) Current licensure as a registered dental assistant, or~~
27 ~~completion of the requirements for licensure as a registered dental~~
28 ~~assistant, as provide in Section 1753.~~

29 ~~(2) Successful completion of an extended functions~~
30 ~~postsecondary program approved by the board in all of the~~
31 ~~procedures specified in Section 1753.1.~~

32 ~~(3) Successful completion of board-approved courses in~~
33 ~~radiation safety and, within the last two years, courses in infection~~
34 ~~control, California dental law, and basic life support.~~

35 ~~(4) Satisfactory performance on a written examination and a~~
36 ~~clinical or practical examination specified by the board.~~

37 ~~(b) The board shall license as a registered restorative assistant~~
38 ~~in extended functions a person who submits written evidence,~~
39 ~~satisfactory to the board, of all of the following:~~

~~(A) Satisfactory work experience of more than 12 months as a dental assistant in California or another state, as required by the board.~~

~~(B) Successful completion of board approved courses in radiation safety, infection control, California dental law, and a basic life support course approved by the board.~~

~~(C)~~

(1) Completion of 12 months of satisfactory work experience as a dental assistant in California or another state. The board shall give credit toward the 12 months of work experience to persons who have graduated from a dental assisting program in a postsecondary institution, secondary institution, regional occupational center, or regional occupation program that are not approved by the board. The credit shall equal the total weeks spent in classroom training and internship on a week-for-week basis, not to exceed 16 weeks.

(2) Successful completion of a board-approved course in radiation safety, and, within the last two years, courses in infection control, California dental law, and basic life support.

(3) Successful completion of a postsecondary program approved by the board for restorative dental assisting specialty registration specified in subdivision (f) of Section 1750.2.

~~(D)~~

~~(4) Successful completion—*a* of an extended functions postsecondary program approved by the board in all of the procedures specified in Section 1753.1—that includes didactic, laboratory, and clinical modalities.~~

~~(E)~~

(5) Satisfactory performance on a written examination and a clinical or practical examination required specified by the board.

~~(c) In approving the educational and extended function postsecondary programs required to be completed for licensure pursuant to this section, the board shall require that those programs offered are the programs taught by persons having prior experience teaching the applicable procedures specified in Section 1753.1, or procedures otherwise authorized by the board pursuant to Section 1751, in a dental school approved either by the Commission on Dental Accreditation or a comparable organization approved by the board. Approved programs shall include didactic, laboratory, and clinical modalities.~~

(d) This section shall become operative on January 1, 2007.

~~SEC. 16.~~

SEC. 24. Section 1753.1 is added to the Business and Professions Code, to read:

1753.1. (a) A registered dental assistant in extended functions is authorized to perform, ~~at a minimum,~~ the following procedures under direct supervision and pursuant to the order, control, and full professional responsibility of a licensed dentist:

(1) Cord retraction of gingivae for impression procedures.

(2) Taking impressions for cast restorations.

(3) Formulating indirect patterns for endodontic post and core castings.

(4) Fitting trial endodontic filling points.

(5) Drying canals previously opened by the supervising dentist, with absorbent points.

(6) Testing pulp vitality.

(7) Removing excess cement from subgingival tooth surfaces with a hand instrument.

(8) Fitting and cementing stainless steel crowns.

(9) Placing, condensing, and carving amalgam restorations.

(10) Placing class I, III, and V composite restorations.

(11) Taking facebow transfers and bite registrations for fixed prostheses.

(12) Taking final impressions for tooth-borne, removable prostheses.

(13) Placing and adjusting permanent crowns for cementation by the dentist.

(14) Applying etchants for bonding restorative materials.

~~(15) Other procedures that require direct supervision for which the board has adopted and published standards of proficiency~~

(15) Other procedures authorized by regulations adopted by the board pursuant to Section 1751.

(b) All procedures required to be performed under direct supervision shall be checked and approved by the supervising dentist prior to the patient's dismissal from the office.

(c) This section shall become operative on January 1, 2007.

~~SEC. 17.~~

SEC. 25. Section 1753.5 of the Business and Professions Code is amended to read:

1 1753.5. (a) In addition to the requirements of Section 1753,
2 an applicant for registered dental assistant licensure on or after
3 July 1, 2002, shall provide evidence of having successfully
4 completed board-approved courses in radiation safety and coronal
5 polishing as a condition of licensure. The length and content of the
6 courses shall be governed by applicable board regulations.

7 (b) This section shall become inoperative on December 31,
8 2006, and, as of January 1, 2007, is repealed, unless a later enacted
9 statute, that is enacted before January 1, 2007, deletes or extends
10 the dates on which it becomes inoperative and is repealed.

11 ~~SEC. 18.~~

12 *SEC. 26.* Section 1754 of the Business and Professions Code
13 is amended to read:

14 1754. (a) By September 15, 1993, the board, upon
15 recommendation of the committee and consistent with this article,
16 standards of good dental practice, and the health and welfare of
17 patients, shall adopt regulations relating to the functions which
18 may be performed by registered dental assistants under direct or
19 general supervision, and the settings within which registered
20 dental assistants may work. At least once every seven years
21 thereafter, the board shall review the list of functions performable
22 by registered dental assistants, the supervision level, and settings
23 under which they may be performed, and shall update the
24 regulations as needed to keep them current with the state of the
25 practice.

26 (b) This section shall become inoperative on December 31,
27 2006, and, as of January 1, 2007, is repealed, unless a later enacted
28 statute, that is enacted before January 1, 2007, deletes or extends
29 the dates on which it becomes inoperative and is repealed.

30 ~~SEC. 19.~~

31 *SEC. 27.* Section 1756 of the Business and Professions Code
32 is amended to read:

33 1756. (a) The board shall license as a registered dental
34 assistant in extended functions a person who satisfies all of the
35 following requirements:

36 (1) Status as a registered dental assistant.

37 (2) Completion of clinical training approved by the board in a
38 facility affiliated with a dental school under the direct supervision
39 of the dental school faculty.

(3) Satisfactory performance on an examination required by the board.

(b) This section shall become inoperative on December 31, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 20.—Section 1757 of the Business and Professions Code is amended to read:~~

~~1757.—(a) Within one year of the date this article takes effect, the board, upon recommendation of the committee, consistent with standards of good dental practice and the health and welfare of patients, shall prescribe by regulation the functions that may be performed by registered dental assistants in extended functions, whether the functions require direct or general supervision, and the settings within which registered dental assistants in extended functions may work.~~

~~(b) This section shall become inoperative on December 31, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 21.—Section 1760 of the Business and Professions Code is amended to read:~~

~~1760.—(a) The following functions may be performed by a registered dental hygienist in addition to those authorized pursuant to Sections 1760.5, 1761, 1762, 1763, and 1764:~~

~~(1) All functions that may be performed by a dental assistant or a registered dental assistant.~~

~~(2) All persons holding a license as a registered dental hygienist on January 1, 2003, or issued a license on or before December 31, 2005, are authorized to perform the duties of a registered dental assistant specified in Section 1754. All persons issued a license as a registered dental hygienist on and after January 1, 2006, shall qualify for and receive a registered dental assistant license prior to performance of the duties specified in Section 1754.~~

~~(b) This section shall become inoperative on December 31, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 22.—Section 1765 of the Business and Professions Code is amended to read:~~

~~1765. — No person other than a licensed dental hygienist or a licensed dentist may engage in the practice of dental hygiene or perform dental hygiene procedures on patients, including, but not limited to, supragingival and subgingival sealing, dental hygiene assessment, and treatment planning, except for the following persons:~~

~~(a) A student enrolled in a dental or a dental hygiene school who is performing procedures as part of the regular curriculum of that program under the supervision of the faculty of that program.~~

~~(b) Except as provided in Section 1776, a dental assistant acting in accordance with, and under the level of supervision required by, the rules of the board in performing the following procedures:~~

~~(1) Applying nonaerosol and noncaustic topical agents.~~

~~(2) Applying topical fluoride.~~

~~(3) Taking impression for bleaching trays.~~

~~(c) Except as provided in Section 1776, a registered dental assistant acting in accordance with, and under the level of supervision required by, the rules of the board in performing the following procedures:~~

~~(1) Polishing the coronal surfaces of teeth.~~

~~(2) Applying bleaching agents.~~

~~(3) Activating bleaching agents with a nonlaser, light-curing device.~~

~~(d) Except as provided in Section 1776, a registered dental assistant in extended functions acting in accordance with, and under the level of supervision required by, the rules of the board in applying pit and fissure sealants.~~

~~(e) A registered dental hygienist licensed in another jurisdiction performing a clinical demonstration for educational purposes.~~

~~(f) This section shall become inoperative on December 31, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 23. Section 1765 is added to the Business and Professions Code, to read:~~

~~1765. — (a) No person other than a licensed dental hygienist or a licensed dentist may engage in the practice of dental hygiene or perform dental hygiene procedures on patients, including, but not limited to, supragingival and subgingival sealing, dental hygiene~~

1 ~~assessment, and treatment planning, except for the following~~
2 ~~persons:~~

3 ~~(1) A student enrolled in a dental or a dental hygiene school~~
4 ~~who is performing procedures as part of the regular curriculum of~~
5 ~~that program under the supervision of the faculty of that program.~~

6 ~~(2) A dental assistant, registered orthodontic assistant,~~
7 ~~registered surgery assistant, registered restorative assistant,~~
8 ~~registered dental assistant, registered restorative assistant in~~
9 ~~extended functions, or registered dental assistant in extended~~
10 ~~function acting within his or her scope of practice as authorized in~~
11 ~~this article and pursuant to regulations adopted by the board~~
12 ~~pursuant to Section 1751.~~

13 ~~(3) A registered dental hygienist licensed in another~~
14 ~~jurisdiction performing a clinical demonstration for educational~~
15 ~~purposes.~~

16 ~~(b) This section shall become operative on January 1, 2007.~~

17 ~~SEC. 24.~~

18 *SEC. 28. Section 1757 of the Business and Professions Code*
19 *is repealed.*

20 ~~1757. Within one year of the date this article takes effect, the~~
21 ~~board, upon recommendation of the committee, consistent with~~
22 ~~standards of good dental practice and the health and welfare of~~
23 ~~patients, shall prescribe by regulation the functions which may be~~
24 ~~performed by registered dental assistants in extended functions,~~
25 ~~whether such functions require direct or general supervision, and~~
26 ~~the settings within which registered dental assistants in extended~~
27 ~~functions may work.~~

28 *SEC. 29. Section 1757 is added to the Business and*
29 *Professions Code, to read:*

30 *1757. (a) Each person who holds a license as a registered*
31 *dental assistant in extended functions on the effective date of this*
32 *section may only perform those procedures that a registered dental*
33 *assistant is allowed to perform, and the procedures listed in*
34 *paragraphs (1), (2), (3), (4), (7), and (14) of subdivision (a) of*
35 *Section 1753.1, until he or she provides evidence of having*
36 *completed a board-approved course or courses in the additional*
37 *functions specified in Section 1753.1, and an examination in the*
38 *additional functions as specified by the board.*

39 *(b) This section shall become operative on January 1, 2007.*

1 *SEC. 30. Section 1760 of the Business and Professions Code*
2 *is repealed.*

3 ~~1760. The following functions may be performed by a~~
4 ~~registered dental hygienist in addition to those authorized pursuant~~
5 ~~to Sections 1760.5, 1761, 1762, 1763, and 1764:~~

6 ~~(a) All functions that may be performed by a dental assistant or~~
7 ~~a registered dental assistant.~~

8 ~~(b) All persons holding a license as a registered dental hygienist~~
9 ~~on January 1, 2003, or issued a license on or before December 31,~~
10 ~~2005, are authorized to perform the duties of a registered dental~~
11 ~~assistant specified in Section 1754. All persons issued a license as~~
12 ~~a registered dental hygienist on and after January 1, 2006, shall~~
13 ~~qualify for and receive a registered dental assistant license prior to~~
14 ~~performance of the duties specified in Section 1754.~~

15 *SEC. 31. Section 1760.5 of the Business and Professions Code*
16 *is repealed.*

17 ~~1760.5. (a) The practice of dental hygiene includes dental~~
18 ~~hygiene assessment, development, planning, and implementation~~
19 ~~of a dental hygiene care plan. It also includes oral health education,~~
20 ~~counseling, and health screenings.~~

21 ~~(b) The practice of dental hygiene does not include any of the~~
22 ~~following procedures:~~

23 ~~(1) Diagnosis and comprehensive treatment planning.~~

24 ~~(2) Placing, condensing, carving, or removal of permanent~~
25 ~~restorations.~~

26 ~~(3) Surgery or cutting on hard and soft tissue including, but not~~
27 ~~limited to, the removal of teeth and the cutting and suturing of soft~~
28 ~~tissue.~~

29 ~~(4) Prescribing medication.~~

30 ~~(5) Administering local or general anesthesia or oral or~~
31 ~~parenteral conscious sedation, except for the administration of~~
32 ~~nitrous oxide and oxygen, whether administered alone or in~~
33 ~~combination with each other, or local anesthesia pursuant to~~
34 ~~Section 1761.~~

35 *SEC. 32. Section 1761 of the Business and Professions Code*
36 *is repealed.*

37 ~~1761. A dental hygienist is authorized to perform the~~
38 ~~following procedures under direct supervision, after submitting to~~
39 ~~the board evidence of satisfactory completion of a board-approved~~
40 ~~course of instruction in the procedures:~~

1 ~~(a) Soft-tissue curettage.~~

2 ~~(b) Administration of local anesthesia.~~

3 ~~(c) Administration of nitrous oxide and oxygen, whether~~
4 ~~administered alone or in combination with each other.~~

5 *SEC. 33. Section 1762 of the Business and Professions Code*
6 *is repealed.*

7 ~~1762. A dental hygienist is authorized to perform the~~
8 ~~following procedures under general supervision:~~

9 ~~(a) Preventive and therapeutic interventions, including oral~~
10 ~~prophylaxis, sealing, and root planing.~~

11 ~~(b) Application of topical, therapeutic, and subgingival agents~~
12 ~~used for the control of caries and periodontal disease.~~

13 ~~(c) The taking of impressions for bleaching trays and~~
14 ~~application and activation of agents with nonlaser, light-curing~~
15 ~~devices.~~

16 ~~(d) The taking of impressions for bleaching trays and~~
17 ~~placements of in-office, tooth-whitening devices.~~

18 *SEC. 34. Section 1763 of the Business and Professions Code*
19 *is repealed.*

20 ~~1763. (a) A dental hygienist may provide, without~~
21 ~~supervision, educational services, oral health training programs,~~
22 ~~and oral health screenings.~~

23 ~~(b) A dental hygienist shall refer any screened patients with~~
24 ~~possible oral abnormalities to a dentist for a comprehensive~~
25 ~~examination, diagnosis, and treatment plan.~~

26 ~~(c) In any public health program created by federal, state, or~~
27 ~~local law or administered by a federal, state, county, or local~~
28 ~~governmental entity, a dental hygienist may provide, without~~
29 ~~supervision, dental hygiene preventive services in addition to oral~~
30 ~~screenings, including, but not limited to, the application of~~
31 ~~fluorides and pit and fissure sealants.~~

32 *SEC. 35. Section 1764 of the Business and Professions Code*
33 *is repealed.*

34 ~~1764. (a) Any procedure performed or service provided by a~~
35 ~~dental hygienist that does not specifically require direct~~
36 ~~supervision shall require general supervision, so long as it does not~~
37 ~~give rise to a situation in the dentist's office requiring immediate~~
38 ~~services for alleviation of severe pain, or immediate diagnosis and~~
39 ~~treatment of unforeseeable dental conditions, which, if not~~

1 ~~immediately diagnosed and treated, would lead to serious~~
2 ~~disability or death.~~

3 ~~(b) Unless otherwise specified in this chapter, a dental~~
4 ~~hygienist may perform any procedure or provide any service~~
5 ~~within the scope of his or her practice in any setting, so long as the~~
6 ~~procedure is performed or the service is provided under the~~
7 ~~appropriate level of supervision required by this article.~~

8 ~~(c) A dental hygienist may use any material or device approved~~
9 ~~for use in the performance of a service or procedure within his or~~
10 ~~her scope of practice under the appropriate level of supervision, if~~
11 ~~the dental hygienist has the appropriate education and training~~
12 ~~required to use the material or device.~~

13 *SEC. 36. Section 1765 of the Business and Professions Code*
14 *is repealed.*

15 ~~1765. — No person other than a licensed dental hygienist or a~~
16 ~~licensed dentist may engage in the practice of dental hygiene or~~
17 ~~perform dental hygiene procedures on patients, including, but not~~
18 ~~limited to, supragingival and subgingival sealing, dental hygiene~~
19 ~~assessment, and treatment planning, except for the following~~
20 ~~persons:~~

21 ~~(a) A student enrolled in a dental or a dental hygiene school~~
22 ~~who is performing procedures as part of the regular curriculum of~~
23 ~~that program under the supervision of the faculty of that program.~~

24 ~~(b) A dental assistant acting in accordance with the rules of the~~
25 ~~board in performing the following procedures:~~

26 ~~(1) Applying nonaerosol and noncaustic topical agents.~~

27 ~~(2) Applying topical fluoride.~~

28 ~~(3) Taking impression for bleaching trays.~~

29 ~~(c) A registered dental assistant acting in accordance with the~~
30 ~~rules of the board in performing the following procedures:~~

31 ~~(1) Polishing the coronal surfaces of teeth.~~

32 ~~(2) Applying bleaching agents.~~

33 ~~(3) Activating bleaching agents with a nonlaser light-curing~~
34 ~~device.~~

35 ~~(d) A registered dental assistant in extended functions acting in~~
36 ~~accordance with the rules of the board in applying pit and fissure~~
37 ~~sealants.~~

38 ~~(e) A registered dental hygienist licensed in another~~
39 ~~jurisdiction performing a clinical demonstration for educational~~
40 ~~purposes.~~

1 ~~SEC. 37. Section 1766 of the Business and Professions Code~~
2 ~~is repealed.~~

3 ~~1766. (a) The board shall license as a registered dental~~
4 ~~hygienist a person who satisfies all of the following requirements:~~

5 ~~(1) Completion of an educational program for registered dental~~
6 ~~hygienists approved by the board, accredited by the Commission~~
7 ~~on Dental Accreditation, and conducted by a degree-granting,~~
8 ~~postsecondary institution.~~

9 ~~(2) Satisfactory performance on an examination required by~~
10 ~~the board.~~

11 ~~(3) Satisfactory completion of a national written dental~~
12 ~~hygiene examination approved by the board.~~

13 ~~(b) The board may grant a license as a registered dental~~
14 ~~hygienist to an applicant who has not taken an examination before~~
15 ~~the board, if the applicant submits all of the following to the board:~~

16 ~~(1) A completed application form and all fees required by the~~
17 ~~board.~~

18 ~~(2) Proof of a current license as a registered dental hygienist~~
19 ~~issued by another state that is not revoked, suspended, or otherwise~~
20 ~~restricted.~~

21 ~~(3) Proof that the applicant has been in clinical practice as a~~
22 ~~registered dental hygienist or has been a full-time faculty member~~
23 ~~in an accredited dental hygiene education program for a minimum~~
24 ~~of 750 hours per year for at least five years preceding the date of~~
25 ~~his or her application under this section. The clinical practice~~
26 ~~requirement shall be deemed met if the applicant provides proof~~
27 ~~of at least three years of clinical practice and commits to~~
28 ~~completing the remaining two years of clinical practice by filing~~
29 ~~with the board a copy of a pending contract to practice dental~~
30 ~~hygiene in any of the following facilities:~~

31 ~~(A) A primary care clinic licensed under subdivision (a) of~~
32 ~~Section 1204 of the Health and Safety Code.~~

33 ~~(B) A primary care clinic exempt from licensure pursuant to~~
34 ~~subdivision (e) of Section 1206 of the Health and Safety Code.~~

35 ~~(C) A clinic owned or operated by a public hospital or health~~
36 ~~system.~~

37 ~~(D) A clinic owned and operated by a hospital that maintains~~
38 ~~the primary contract with a county government to fill the county's~~
39 ~~role under Section 17000 of the Welfare and Institutions Code.~~

1 ~~(4) Proof that the applicant has not been subject to disciplinary~~
2 ~~action by any state in which he or she is or has been previously~~
3 ~~licensed as a registered dental hygienist or dentist. If the applicant~~
4 ~~has been subject to disciplinary action, the board shall review that~~
5 ~~action to determine if it warrants refusal to issue a license to the~~
6 ~~applicant.~~

7 ~~(5) Proof of graduation from a school of dental hygiene~~
8 ~~accredited by the Commission on Dental Accreditation.~~

9 ~~(6) Proof of satisfactory completion of the Dental Hygiene~~
10 ~~National Board Examination and of a state or regional clinical~~
11 ~~licensure examination.~~

12 ~~(7) Proof that the applicant has not failed the examination for~~
13 ~~licensure to practice dental hygiene under this chapter more than~~
14 ~~once or once within five years prior to the date of his or her~~
15 ~~application for a license under this section.~~

16 ~~(8) Documentation of completion of a minimum of 25 units of~~
17 ~~continuing education earned in the two years preceding~~
18 ~~application, including completion of any continuing education~~
19 ~~requirements imposed by the board on registered dental hygienists~~
20 ~~licensed in this state at the time of application.~~

21 ~~(9) Any other information as specified by the board to the~~
22 ~~extent that it is required of applicants for licensure by examination~~
23 ~~under this article.~~

24 ~~(e) The board may periodically request verification of~~
25 ~~compliance with the requirements of paragraph (3) of subdivision~~
26 ~~(b), and may revoke the license upon a finding that the~~
27 ~~employment requirement or any other requirement of paragraph~~
28 ~~(3) has not been met.~~

29 ~~(d) The board shall provide in the application packet to each~~
30 ~~out-of-state dental hygienist pursuant to this section the following~~
31 ~~information:~~

32 ~~(1) The location of dental manpower shortage areas in the state.~~

33 ~~(2) Any not-for-profit clinics, public hospitals, and accredited~~
34 ~~dental hygiene education programs seeking to contract with~~
35 ~~licensees for dental hygiene service delivery or training purposes.~~

36 ~~(e) The board shall review the impact of this section on the~~
37 ~~availability of actively practicing dental hygienists in California~~
38 ~~and report to the appropriate policy and fiscal committees of the~~
39 ~~Legislature by January 1, 2006. The report shall include a separate~~
40 ~~section providing data specific to dental hygienists who intend to~~

~~fulfill the alternative clinical practice requirements of subdivision (b). The report shall include, but not be limited to, the following:~~

~~(1) The number of applicants from other states who have sought licensure.~~

~~(2) The number of dental hygienists from other states licensed pursuant to this section, the number of licenses not granted under this section, and the reason why the license was not granted.~~

~~(3) The practice location of dental hygienists licensed pursuant to this section.~~

~~(4) The number of dental hygienists licensed pursuant to this section who establish a practice in a rural area or in an area designated as having a shortage of practicing dental hygienists or no dental hygienists or in a safety net facility identified in paragraph (3) of subdivision (b).~~

~~(5) The length of time dental hygienists licensed pursuant to this section practiced in the reported location.~~

~~(f) In identifying a dental hygienist's location of practice, the board shall use medical service study areas or other appropriate geographic descriptions for regions of the state.~~

SEC. 38. Section 1770 of the Business and Professions Code is amended to read:

1770. (a) A licensed dentist may simultaneously utilize in his or her practice no more than two dental auxiliaries in extended functions licensed pursuant to Sections 1756 and 1768.

(b) This section shall become inoperative on December 31, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

~~*SEC. 25.*~~

SEC. 39. Section 1770 is added to the Business and Professions Code, to read:

1770. (a) A licensed dentist may simultaneously utilize in his or her practice no more than three dental auxiliaries in extended functions licensed pursuant to Sections 1753 and 1768.

(b) This section shall become operative on January 1, 2007.

~~*SEC. 26.* Section 1776 is added to the Business and Professions Code, to read:~~

~~1776. (a) A person licensed as a registered dental assistant or a registered dental assistant in extended functions on or before December 31, 2006, may elect to remain licensed and to continue~~

~~to perform those functions authorized by the board pursuant to subdivision (g) of Section 1750.2 and Section 1753.2 and imposed on registered dental assistants and registered dental assistant in extended functions through December 31, 2006.~~

~~(b) The board shall renew the license of any person described in subdivision (a) on the same terms and conditions of issuance upon application, payment of fees, and satisfactory evidence of completion of any continuing education required by Sections 1645, 1645.1, or any other requirement for renewal imposed by law on or after January 1, 2005.~~

~~SEC. 27.~~

~~SEC. 40. Section 1772 of the Business and Professions Code is repealed.~~

~~1772. The board shall seek to obtain an injunction against any dental hygienist who provides services in alternative practice pursuant to Sections 1774 and 1775 if the board has reasonable cause to believe that the services are being provided to a patient who has not received a prescription for those services from a dentist or physician and surgeon licensed to practice in this state.~~

~~SEC. 41. Section 1774 of the Business and Professions Code is repealed.~~

~~1774. (a) The board shall license as a registered dental hygienist in alternative practice a person who demonstrates satisfactory performance on an examination required by the board and, subject to Sections 1760 and 1766, who meets either of the following requirements:~~

~~(1) Holds a current California license as a dental hygienist and meets the following requirements:~~

~~(A) Has been engaged in clinical practice as a dental hygienist for a minimum of 2,000 hours during the immediately preceding 36 months.~~

~~(B) Has successfully completed a bachelor's degree or its equivalent from a college or institution of higher education that is accredited by a national agency recognized by the Council on Postsecondary Accreditation or the United States Department of Education, and a minimum of 150 hours of additional educational requirements, as prescribed by the board by regulation, that are consistent with good dental and dental hygiene practice, including, but not necessarily limited to, dental hygiene technique and theory~~

1 including gerontology and medical emergencies, and business
2 administration and practice management.

3 (2) ~~Has received a letter of acceptance into the employment~~
4 ~~utilization phase of the Health Manpower Pilot Project No. 155~~
5 ~~established by the Office of Statewide Health Planning and~~
6 ~~Development pursuant to Article 1 (commencing with Section~~
7 ~~128125) of Chapter 3 of Part 3 of Division 107 of the Health and~~
8 ~~Safety Code.~~

9 (b) ~~Subject to the provisions of subdivisions (b) and (h) of~~
10 ~~Section 1775, the board, in consultation with the committee, shall~~
11 ~~adopt regulations in accordance with Section 1748 necessary to~~
12 ~~implement this section.~~

13 (c) ~~The Director of Consumer Affairs shall review the~~
14 ~~regulations adopted by the board in accordance with Section~~
15 ~~313.1.~~

16 (d) ~~A person licensed as a registered dental hygienist who has~~
17 ~~completed the prescribed classes through the Health Manpower~~
18 ~~Pilot Project (HMPP) and who has established an independent~~
19 ~~practice under the HMPP by June 30, 1997, shall be deemed to~~
20 ~~have satisfied the licensing requirements under Section 1774, and~~
21 ~~shall be authorized to continue to operate the practice he or she~~
22 ~~presently operates, so long as he or she follows the requirements~~
23 ~~for prescription and functions as specified in this section and~~
24 ~~Section 1775, with the exception of subdivision (c) of Section~~
25 ~~1775, and as long as he or she continues to personally practice and~~
26 ~~operate the practice or until he or she sells the practice to a licensed~~
27 ~~dentist.~~

28 *SEC. 42. Section 1775 of the Business and Professions Code*
29 *is repealed.*

30 1775. (a) ~~A registered dental hygienist in alternative practice~~
31 ~~may perform those preventive and therapeutic functions described~~
32 ~~in subdivision (a) of Section 1760, subdivision (a) of Section~~
33 ~~1760.5, and subdivisions (a) and (b) of Section 1762 as an~~
34 ~~employee of a dentist or of another registered dental hygienist in~~
35 ~~alternative practice, or as an independent contractor, or as a sole~~
36 ~~proprietor of an alternative dental hygiene practice, or as an~~
37 ~~employee of a primary care clinic or specialty clinic that is licensed~~
38 ~~pursuant to Section 1204 of the Health and Safety Code or as an~~
39 ~~employee of a primary care clinic exempt from licensure pursuant~~
40 ~~to subdivision (c) of Section 1206 of the Health and Safety Code,~~

1 ~~or as an employee of a clinic owned or operated by a public~~
2 ~~hospital or health system, or as an employee of a clinic owned and~~
3 ~~operated by a hospital that maintains the primary contract with a~~
4 ~~county government to fill the county's role under Section 17000~~
5 ~~of the Welfare and Institutions Code.~~

6 ~~(b) A registered dental hygienist in alternative practice may~~
7 ~~perform the dental hygiene services specified in subdivision (a) in~~
8 ~~the following settings:~~

9 ~~(1) Residences of the homebound.~~

10 ~~(2) Schools.~~

11 ~~(3) Residential facilities and other institutions.~~

12 ~~(4) Dental health professional shortage areas, as certified by the~~
13 ~~Office of Statewide Health Planning and Development in~~
14 ~~accordance with existing office guidelines.~~

15 ~~(c) A registered dental hygienist in alternative practice shall not~~
16 ~~do any of the following:~~

17 ~~(1) Infer, purport, advertise, or imply that he or she is in any~~
18 ~~way able to provide dental services or make any type of dental~~
19 ~~health diagnosis beyond those services specified in subdivision~~
20 ~~(a).~~

21 ~~(2) Hire a registered dental hygienist to provide direct patient~~
22 ~~services other than a registered dental hygienist in alternative~~
23 ~~practice.~~

24 ~~(d) A registered dental hygienist in alternative practice may~~
25 ~~submit or allow to be submitted any insurance or third-party claims~~
26 ~~for patient services performed as authorized pursuant to this~~
27 ~~article.~~

28 ~~(e) A registered dental hygienist in alternative practice may~~
29 ~~hire other registered dental hygienists in alternative practice to~~
30 ~~assist in his or her practice.~~

31 ~~(f) A registered dental hygienist in alternative practice may hire~~
32 ~~and supervise dental assistants performing functions specified in~~
33 ~~subdivision (b) of Section 1751.~~

34 ~~(g) A registered dental hygienist in alternative practice shall~~
35 ~~provide to the board documentation of an existing relationship~~
36 ~~with at least one dentist for referral, consultation, and emergency~~
37 ~~services.~~

38 ~~(h) A registered dental hygienist in alternative practice may~~
39 ~~perform dental hygiene services for a patient who presents to the~~
40 ~~registered hygienist in alternative practice a written prescription~~

~~1 for dental hygiene services issued by a dentist or physician and
2 surgeon licensed to practice in this state who has performed a
3 physical examination and a diagnosis of the patient prior to the
4 prescription being provided. The prescription shall be valid for a
5 time period based on the dentist's or physician and surgeon's
6 professional judgment, but not to exceed 15 months from the date
7 that it was issued.~~

8 SEC. 43. Section 1777 is added to the Business and
9 Professions Code, to read:

10 1777. While employed by or practicing in a primary care
11 clinic or specialty clinic licensed pursuant to Section 1204 of the
12 Health and Safety Code, in a primary care clinic exempt from
13 licensure pursuant to subdivision (c) of Section 1206 of the Health
14 and Safety Code, or a clinic owned and operated by a hospital that
15 maintains the primary contract with a county government to fill the
16 county's role under Section 17000 of the Welfare and Institutions
17 Code, a registered dental assistant or a registered dental assistant
18 in extended functions may perform the following procedures
19 under the direct supervision of a registered dental hygienist, after
20 examination and diagnosis by a licensed dentist:

21 (a) Coronal polishing, *after providing evidence to the board of*
22 *having completed a board-approved course in such procedure.*

23 (b) Application of topical fluoride.

24 (c) Application of sealants, *after providing evidence to the*
25 *board of having completed a board-approved course in such*
26 *procedure.*

27 SEC. 44. Article 9 (commencing with Section 1900) is added
28 to Chapter 4 of Division 2 of the Business and Professions Code,
29 to read:

30
31 Article 9. Dental Hygienists
32

33 1900. It is the intent of the Legislature by enactment of this
34 article to permit the full utilization of dental hygienists in order to
35 meet the dental care needs of all of the state's citizens.

36 1901. (a) There is hereby created in the Department of
37 Consumer Affairs a California Dental Hygiene Board in which the
38 administration of this article is vested.

39 (b) This section shall become inoperative July 1, 2011, and, as
40 of January 1, 2012, is repealed, unless a later enacted statute that

1 *is enacted before January 1, 2007, deletes or extends the dates on*
2 *which it becomes operative and is repealed.*

3 *1902. For purposes of this article, the following definitions*
4 *apply:*

5 (a) *“Board” means the California Dental Hygiene Board.*

6 (b) *“Dental board” means the Dental Board of California.*

7 (c) *“Direct supervision” means the supervision of dental*
8 *procedures based on instructions given by a licensed dentist who*
9 *is required to be physically present in the treatment facility during*
10 *the performance of those procedures.*

11 (d) *“General supervision” means the supervision of dental*
12 *procedures based on instructions or on a prescription given by a*
13 *licensed dentist who is not required to be physically present in the*
14 *treatment facility during the performance of those procedures.*

15 (e) *“Oral prophylaxis” means preventive and therapeutic*
16 *dental procedures that include bacterial debridement with*
17 *complete removal, supra and subgingivally, of calculus, soft*
18 *deposits, plaque, and stains, and the smoothing of tooth surfaces.*
19 *The objective of this treatment is to create an environment in which*
20 *the patient can maintain healthy hard and soft tissues.*

21 *1903. (a) (1) The board shall consist of nine members*
22 *appointed by the Governor. Four shall be public members, one*
23 *member shall be a licensed public health dentist, and four*
24 *members shall be registered dental hygienists. Of the registered*
25 *dental hygienists members, one shall be licensed either in*
26 *alternative practice or in extended functions, one shall be a dental*
27 *hygiene educator, and two shall be registered dental hygienists*
28 *holding a current, valid license to practice dental hygiene. No*
29 *public member shall have been licensed under this chapter within*
30 *five years of the date of his or her appointment to the board or have*
31 *any current financial interest in a dental-related business.*

32 (2) *For purposes of this subdivision, a public health dentist is*
33 *a dentist whose primary employer or place of employment is in any*
34 *of the following:*

35 (A) *A primary care clinic licensed under subdivision (a) of*
36 *Section 1204 of the Health and Safety Code.*

37 (B) *A primary care clinic exempt from licensure pursuant to*
38 *subdivision (c) of Section 1206 of the Health and Safety Code.*

39 (C) *A clinic owned or operated by a public hospital or health*
40 *system.*

1 (D) A clinic owned and operated by a hospital that maintains
2 the primary contract with a county government to fill the county's
3 role under Section 17000 of the Welfare and Institutions Code.

4 (b) Except for the initial term, members of the board shall be
5 appointed for a term of four years. Of the initial appointments, the
6 term of the licensed dentist member, one of the public members,
7 and one of the registered dental hygienists shall expire on
8 December 31, 2004; the term of a second public member and two
9 other registered dental hygienists shall expire on December 31,
10 2005; and the term of the remaining members shall expire on
11 December 31, 2006.

12 (c) The board shall annually elect one of its members as
13 president of the board.

14 (d) No person shall serve as a member of the board for more
15 than two consecutive terms.

16 (e) A vacancy in the board shall be filled by appointment to the
17 unexpired term.

18 (f) Each member of the board shall receive a per diem and
19 expenses as provided in Section 103.

20 (g) The Governor shall have the power to remove any member
21 from the board for neglect of a duty required by law or for
22 incompetence or for unprofessional or dishonorable conduct.

23 1904. (a) The board shall meet at least four times each
24 calendar year and shall conduct additional meetings in
25 appropriate locations that are necessary to transact its business.

26 (b) Special meetings may be held by the board at times and
27 locations designated by it.

28 (c) The board shall provide a minimum of two weeks' notice of
29 its meetings to those persons and organizations who have
30 expressed an interest in receiving this notification.

31 1905. (a) The board shall perform the following functions:

32 (1) Evaluating all registered dental hygienist and registered
33 dental hygienist in alternative practice educational programs that
34 apply for approval and granting or denying approval of those
35 applications in accordance with regulations adopted by the board.

36 (2) Withdrawing or revoking its prior approval of a registered
37 dental hygienist or registered dental hygienist in alternative
38 practice educational program in accordance with regulations
39 adopted by the board.



1 (3) *Reviewing and evaluating all registered dental hygienist or*
2 *registered dental hygienist in alternative practice applications for*
3 *licensure to ascertain whether the applicant meets the appropriate*
4 *licensing requirements specified by statute and board regulations,*
5 *maintaining application records, cashiering application fees,*
6 *issuing and renewing licenses, and performing any other tasks that*
7 *are incidental to the application and licensure processes.*

8 (4) *Determining the appropriate type of license examination*
9 *consistent with the provisions of this article, developing or causing*
10 *to be developed and administering examinations in accordance*
11 *with regulations adopted by the board.*

12 (5) *Determining the amount of fees assessed under this article.*

13 (6) *Determining and enforcing the continuing education*
14 *requirements specified in this article.*

15 (7) *Advising the dental board as to the appropriate standards*
16 *of conduct for a registered dental hygienist and a registered dental*
17 *hygienist in alternative practice, the proper ordering of*
18 *enforcement priorities, and any other enforcement-related*
19 *matters.*

20 (8) *Adopting rules and regulations to implement the provisions*
21 *of this article, including the required amount of supervision by a*
22 *licensed dentist of a registered dental hygienist and registered*
23 *dental hygienist in alternative practice.*

24 (9) *Hiring an executive officer.*

25 (b) *The board may employ employees and examiners it deems*
26 *necessary to carry out its functions and responsibilities under this*
27 *article.*

28 1906. (a) *All regulations adopted by the board shall comply*
29 *with the provisions of Chapter 3.5 (commencing with Section*
30 *11340) of Part 1 of Division 3 of Title 2 of the Government Code.*

31 (b) *No regulation adopted by the board shall impose a*
32 *requirement or a prohibition directly upon a licensed dentist or on*
33 *the administration of a dental office, unless specifically authorized*
34 *by this article.*

35 (c) *Unless contrary to the provisions of this article, regulations*
36 *adopted by the dental board shall continue to apply to registered*
37 *dental hygienists and registered dental hygienists in alternative*
38 *practice until other regulations are adopted by the board. All*
39 *references in those regulations to “board” shall mean the*
40 *California Dental Hygiene Board that shall solely enforce the*

1 regulations with respect to registered dental hygienists and
2 registered dental hygienists in alternative practice.

3 1907. The following functions may be performed by a
4 registered dental hygienist in addition to those authorized
5 pursuant to Sections 1908, 1909, 1910, 1911, 1912, 1913, and
6 1914:

7 (a) All functions that may be performed by a dental assistant or
8 a registered dental assistant.

9 (b) All persons holding a license as a registered dental
10 hygienist on January 1, 2003, or issued a license on or before
11 December 31, 2005, are authorized to perform the duties of a
12 registered dental assistant specified in Section 1754. All persons
13 issued a license as a registered dental hygienist on and after
14 January 1, 2006, shall qualify for and receive a registered dental
15 assistant license prior to performance of the duties specified in
16 Section 1754.

17 1908. (a) The practice of dental hygiene includes dental
18 hygiene assessment, development, planning, and implementation
19 of a dental hygiene care plan. It also includes oral health
20 education, counseling, and health screenings.

21 (b) The practice of dental hygiene does not include any of the
22 following procedures:

23 (1) Diagnosis and comprehensive treatment planning.

24 (2) Placing, condensing, carving, or removal of permanent
25 restorations.

26 (3) Surgery or cutting on hard and soft tissue including, but not
27 limited to, the removal of teeth and the cutting and suturing of soft
28 tissue.

29 (4) Prescribing medication.

30 (5) Administering local or general anesthesia or oral or
31 parenteral conscious sedation, except for the administration of
32 nitrous oxide and oxygen, whether administered alone or in
33 combination with each other, or local anesthesia pursuant to
34 Section 1909.

35 1909. A dental hygienist is authorized to perform the
36 following procedures under direct supervision, after submitting to
37 the board evidence of satisfactory completion of a board-approved
38 course of instruction in the procedures:

39 (a) Soft-tissue curettage.

40 (b) Administration of local anesthesia.

1 (c) Administration of nitrous oxide and oxygen, whether
2 administered alone or in combination with each other.

3 1910. A dental hygienist is authorized to perform the
4 following procedures under general supervision:

5 (a) Preventive and therapeutic interventions, including oral
6 prophylaxis, scaling, and root planing.

7 (b) Application of topical, therapeutic, and subgingival agents
8 used for the control of caries and periodontal disease.

9 (c) The taking of impressions for bleaching trays and
10 application and activation of agents with nonlaser, light-curing
11 devices.

12 (d) The taking of impressions for bleaching trays and
13 placements of in-office, tooth-whitening devices.

14 1911. (a) A dental hygienist may provide, without
15 supervision, educational services, oral health training programs,
16 and oral health screenings.

17 (b) A dental hygienist shall refer any screened patients with
18 possible oral abnormalities to a dentist for a comprehensive
19 examination, diagnosis, and treatment plan.

20 (c) In any public health program created by federal, state, or
21 local law or administered by a federal, state, county, or local
22 governmental entity, a dental hygienist may provide, without
23 supervision, dental hygiene preventive services in addition to oral
24 screenings, including, but not limited to, the application of
25 fluorides and pit and fissure sealants.

26 1912. Any procedure performed or service provided by a
27 dental hygienist that does not specifically require direct
28 supervision shall require general supervision, so long as it does not
29 give rise to a situation in the dentist's office requiring immediate
30 services for alleviation of severe pain, or immediate diagnosis and
31 treatment of unforeseeable dental conditions, which, if not
32 immediately diagnosed and treated, would lead to serious
33 disability or death.

34 1913. Unless otherwise specified in this chapter, a dental
35 hygienist may perform any procedure or provide any service within
36 the scope of his or her practice in any setting, so long as the
37 procedure is performed or the service is provided under the
38 appropriate level of supervision required by this article.

39 1914. A dental hygienist may use any material or device
40 approved for use in the performance of a service or procedure

1 within his or her scope of practice under the appropriate level of
2 supervision, if the dental hygienist has the appropriate education
3 and training required to use the material or device.

4 1915. No person other than a licensed dental hygienist or a
5 licensed dentist may engage in the practice of dental hygiene or
6 perform dental hygiene procedures on patients, including, but not
7 limited to, supragingival and subgingival scaling, dental hygiene
8 assessment, and treatment planning, except for the following
9 persons:

10 (a) A student enrolled in a dental or a dental hygiene school
11 who is performing procedures as part of the regular curriculum of
12 that program under the supervision of the faculty of that program.

13 (b) A registered dental assistant acting in accordance with the
14 rules of the board in applying topical agents used for the control
15 of caries or polishing the coronal surfaces of teeth.

16 (c) A registered dental hygienist licensed in another
17 jurisdiction performing a clinical demonstration for educational
18 purposes.

19 1916. (a) The board shall license as a registered dental
20 hygienist a person who satisfies all of the following requirements:

21 (1) Completion of an educational program for registered dental
22 hygienists, approved by the board, and accredited by the
23 Commission on Dental Accreditation, and conducted by a
24 degree-granting, postsecondary institution.

25 (2) Satisfactory performance on an examination required by
26 the board.

27 (3) Satisfactory completion of a national written dental
28 hygiene examination approved by the board.

29 (b) The board may grant a license as a registered dental
30 hygienist to an applicant who has not taken a clinical examination
31 before the board, if the applicant submits all of the following to the
32 board:

33 (1) A completed application form and all fees required by the
34 board.

35 (2) Proof of a current license as a registered dental hygienist
36 issued by another state that is not revoked, suspended, or otherwise
37 restricted.

38 (3) Proof that the applicant has been in clinical practice as a
39 registered dental hygienist or has been a full-time faculty member
40 in an accredited dental hygiene education program for a minimum

1 of 750 hours per year for at least five years preceding the date of
2 his or her application under this section. The clinical practice
3 requirement shall be deemed met if the applicant provides proof of
4 at least three years of clinical practice and commits to completing
5 the remaining two years of clinical practice by filing with the board
6 a copy of a pending contract to practice dental hygiene in any of
7 the following facilities:

8 (A) A primary care clinic licensed under subdivision (a) of
9 Section 1204 of the Health and Safety Code.

10 (B) A primary care clinic exempt from licensure pursuant to
11 subdivision (c) of Section 1206 of the Health and Safety Code.

12 (C) A clinic owned or operated by a public hospital or health
13 system.

14 (D) A clinic owned and operated by a hospital that maintains
15 the primary contract with a county government to fill the county's
16 role under Section 17000 of the Welfare and Institutions Code.

17 (4) Satisfactory performance on the California Law and Ethics
18 examination and any examination that may be required by the
19 board.

20 (5) Proof that the applicant has not been subject to disciplinary
21 action by any state in which he or she is or has been previously
22 licensed as a registered dental hygienist or dentist. If the applicant
23 has been subject to disciplinary action, the board shall review that
24 action to determine if it warrants refusal to issue a license to the
25 applicant.

26 (6) Proof of graduation from a school of dental hygiene
27 accredited by the Commission on Dental Accreditation.

28 (7) Proof of satisfactory completion of the Dental Hygiene
29 National Board Examination and of a state or regional clinical
30 licensure examination.

31 (8) Proof that the applicant has not failed the examination for
32 licensure to practice dental hygiene under this chapter more than
33 once or once within five years prior to the date of his or her
34 application for a license under this section.

35 (9) Documentation of completion of a minimum of 25 units of
36 continuing education earned in the two years preceding
37 application, including completion of any continuing education
38 requirements imposed by the board on registered dental hygienists
39 licensed in this state at the time of application.

1 (10) Any other information as specified by the board to the
2 extent that it is required of applicants for licensure by examination
3 under this article.

4 (c) The board may periodically request verification of
5 compliance with the requirements of paragraph (3) of subdivision
6 (b), and may revoke the license upon a finding that the employment
7 requirement or any other requirement of paragraph (3) has not
8 been met.

9 (d) The board shall provide in the application packet to each
10 out-of-state dental hygienist pursuant to this section the following
11 information:

12 (1) The location of dental manpower shortage areas in the
13 state.

14 (2) Any not-for-profit clinics, public hospitals, and accredited
15 dental hygiene education programs seeking to contract with
16 licensees for dental hygiene service delivery or training purposes.

17 1917. (a) The board shall review the impact of Section 1916 on
18 the availability of actively practicing dental hygienists in
19 California and report to the appropriate policy and fiscal
20 committees of the Legislature by January 1, 2006. The report shall
21 include a separate section providing data specific to dental
22 hygienists who intend to fulfill the alternative clinical practice
23 requirements of subdivision (b) of Section 1916. The report shall
24 include, but not be limited to, the following:

25 (1) The number of applicants from other states who have sought
26 licensure.

27 (2) The number of dental hygienists from other states licensed
28 pursuant to Section 1916, the number of licenses not granted, and
29 the reason why the license was not granted.

30 (3) The practice location of dental hygienists licensed pursuant
31 to subdivision (b) of Section 1916.

32 (4) The number of dental hygienists licensed pursuant to
33 Section 1916 who establish a practice in a rural area or in an area
34 designated as having a shortage of practicing dental hygienists or
35 no dental hygienists or in a safety net facility identified in
36 paragraph (3) of subdivision (b) of Section 1916.

37 (5) The length of time dental hygienists licensed pursuant to
38 Section 1916 practiced in the reported location.

1 ***(b) In identifying a dental hygienist's location of practice, the***
2 ***board shall use medical service study areas or other appropriate***
3 ***geographic descriptions for regions of the state.***

4 ***1918. The board shall seek to obtain an injunction against any***
5 ***dental hygienist who provides services in alternative practice***
6 ***pursuant to Sections 1919, 1920, 1921, 1922, 1923, 1924, 1925,***
7 ***1926, 1927, and 1928, if the board has reasonable cause to believe***
8 ***that the services are being provided to a patient who has not***
9 ***received a prescription for those services from a dentist or***
10 ***physician and surgeon licensed to practice in this state.***

11 ***1919. The board shall license as a registered dental hygienist***
12 ***in alternative practice a person who demonstrates satisfactory***
13 ***performance on an examination required by the board and, subject***
14 ***to Sections 1907, 1916, and 1917 who meets either of the following***
15 ***requirements:***

16 ***(a) Holds a current California license as a dental hygienist and***
17 ***meets the following requirements:***

18 ***(1) Has been engaged in clinical practice as a dental hygienist***
19 ***for a minimum of 2,000 hours during the immediately preceding***
20 ***36 months.***

21 ***(2) Has successfully completed a bachelor's degree or its***
22 ***equivalent from a college or institution of higher education that is***
23 ***accredited by a national agency recognized by the Council on***
24 ***Postsecondary Accreditation or the United States Department of***
25 ***Education, and a minimum of 150 hours of additional educational***
26 ***requirements, as prescribed by the board by regulation, that are***
27 ***consistent with good dental and dental hygiene practice,***
28 ***including, but not necessarily limited to, dental hygiene technique***
29 ***and theory including gerontology and medical emergencies, and***
30 ***business administration and practice management.***

31 ***(b) Has received a letter of acceptance into the employment***
32 ***utilization phase of the Health Manpower Pilot Project No. 155***
33 ***established by the Office of Statewide Health Planning and***
34 ***Development pursuant to Article 1 (commencing with Section***
35 ***128125) of Chapter 3 of Part 3 of Division 107 of the Health and***
36 ***Safety Code.***

37 ***1920. (a) Subject to the provisions of Sections 1922, 1927,***
38 ***and 1928, the board shall adopt regulations in accordance with***
39 ***Section 1748 necessary to implement this section.***

1 (b) The Director of Consumer Affairs shall review the
2 regulations adopted by the board in accordance with Section
3 313.1.

4 1921. A person licensed as a registered dental hygienist who
5 has completed the prescribed classes through the Health
6 Manpower Pilot Project (HMPP) and who has established an
7 independent practice under the HMPP by June 30, 1997, shall be
8 deemed to have satisfied the licensing requirements under Section
9 1919, and shall be authorized to continue to operate the practice
10 he or she presently operates, so long as he or she follows the
11 requirements for prescription and functions as specified in
12 Sections 1919, 1922, 1923, 1924, 1925, 1927, and 1928, and
13 subdivision (b) of Section 1926, and as long as he or she continues
14 to personally practice and operate the practice or until he or she
15 sells the practice to a licensed dentist.

16 1922. A registered dental hygienist in alternative practice
17 may practice, pursuant to Sections 1919, 1920, and 1921, as an
18 employee of a dentist or of another registered dental hygienist in
19 alternative practice, or as an independent contractor, or as a sole
20 proprietor of an alternative dental hygiene practice, or as an
21 employee of a primary care clinic or specialty clinic that is
22 licensed pursuant to Section 1204 of the Health and Safety Code
23 or as an employee of a primary care clinic exempt from licensure
24 pursuant to subdivision (c) of Section 1206 of the Health and
25 Safety Code, or as an employee of a clinic owned or operated by
26 a public hospital or health system, or as an employee of a clinic
27 owned and operated by a hospital that maintains the primary
28 contract with a county government to fill the county's role under
29 Section 17000 of the Welfare and Institutions Code.

30 1923. A registered dental hygienist in alternative practice
31 may perform the duties authorized pursuant to Sections 1919,
32 1920, and 1921 in the following settings:

33 (a) Residences of the homebound.

34 (b) Schools.

35 (c) Residential facilities and other institutions.

36 (d) Dental health professional shortage areas, as certified by
37 the Office of Statewide Health Planning and Development in
38 accordance with existing office guidelines.

39 1924. A registered dental hygienist in alternative practice
40 shall not do any of the following:

1 (a) *Infer, purport, advertise, or imply that he or she is in any*
2 *way able to provide dental services or make any type of dental*
3 *health diagnosis beyond evaluating a patient's dental hygiene*
4 *status, providing a dental hygiene treatment plan, and providing*
5 *the associated dental hygiene services.*

6 (b) *Hire a registered dental hygienist to provide direct patient*
7 *services other than a registered dental hygienist in alternative*
8 *practice.*

9 1925. *A registered dental hygienist in alternative practice*
10 *may submit or allow to be submitted any insurance or third-party*
11 *claims for patient services performed as authorized pursuant to*
12 *this article.*

13 1926. (a) *A registered dental hygienist in alternative practice*
14 *may hire other registered dental hygienists in alternative practice*
15 *to assist in his or her practice.*

16 (b) *A registered dental hygienist in alternative practice may*
17 *hire and supervise dental assistants performing functions specified*
18 *in subdivision (b) of Section 1751.*

19 1927. *A registered dental hygienist in alternative practice*
20 *shall provide to the board documentation of an existing*
21 *relationship with at least one dentist for referral, consultation, and*
22 *emergency services.*

23 1928. *A registered dental hygienist in alternative practice*
24 *may perform dental hygiene services for a patient who presents to*
25 *the registered hygienist in alternative practice a written*
26 *prescription for dental hygiene services issued by a dentist or*
27 *physician and surgeon licensed to practice in this state who has*
28 *performed a physical examination and a diagnosis of the patient*
29 *prior to the prescription being provided. The prescription shall be*
30 *valid for a time period based on the dentist's or physician and*
31 *surgeon's professional judgment, but not to exceed 15 months from*
32 *the date that it was issued.*

33 1929. (a) *The board may, in its sole discretion, issue a*
34 *probationary license to an applicant who has satisfied all*
35 *requirements for licensure as a registered dental hygienist or*
36 *registered dental hygienist in alternative practice. The board may*
37 *require, as a term or condition of issuing the probationary license,*
38 *that the applicant comply with certain additional requirements,*
39 *including, but not limited to, the following:*

- 1 (1) *Successfully completing a professional competency*
- 2 *examination.*
- 3 (2) *Submitting to a medical or psychological evaluation.*
- 4 (3) *Submitting to continuing medical or psychological*
- 5 *treatment.*
- 6 (4) *Abstaining from the use of alcohol or drugs.*
- 7 (5) *Submitting to random fluid testing for alcohol or controlled*
- 8 *substance abuse.*
- 9 (6) *Submitting to continuing participation in a board-approved*
- 10 *rehabilitation program.*
- 11 (7) *Restricting the type or circumstances of practice.*
- 12 (8) *Submitting to continuing education and coursework.*
- 13 (9) *Complying with requirements regarding notifying the board*
- 14 *of any change of employer or employment.*
- 15 (10) *Complying with probation monitoring.*
- 16 (11) *Complying with all laws and regulations governing the*
- 17 *practice of dentistry.*
- 18 (12) *Limiting his or her practice to a supervised, structured*
- 19 *environment in which his or her activities are supervised by a*
- 20 *specified person.*
- 21 (b) *The term of a probationary license is three years. During the*
- 22 *term of the license, a registered dental hygienist or registered*
- 23 *dental hygienist in alternative practice may petition the board for*
- 24 *a modification of a term or condition of the license or for the*
- 25 *issuance of a license that is not probationary.*
- 26 (c) *The proceedings under this section shall be conducted in*
- 27 *accordance with the provisions of Chapter 5 (commencing with*
- 28 *Section 11500) of Part 1 of Division 3 of Title 2 of the Government*
- 29 *Code, and the board shall have all the powers granted in that*
- 30 *chapter.*
- 31 1930. (a) *A person who holds a current and active license as*
- 32 *a registered dental hygienist in extended functions on January 1,*
- 33 *2005, shall automatically be issued a license as a registered dental*
- 34 *hygienist, unless the person holds a current and active registered*
- 35 *dental hygienist license.*
- 36 (b) *A registered dental hygienist license issued pursuant to this*
- 37 *section shall expire on the same date as the person's prior*
- 38 *registered dental hygienist in extended functions license, and shall*
- 39 *be subject to the same renewal and other requirements imposed by*
- 40 *law or regulation on a license.*

1 1931. A licensee shall be issued a substitute license upon
2 request and payment of the required fee. The request shall be
3 accompanied by an affidavit or declaration containing
4 satisfactory evidence of the loss or destruction of the license
5 certificate.

6 1932. A licensee who changes his or her address of record
7 shall notify the board within 30 days of the change. A licensee who
8 changes his or her legal name shall provide the board with
9 documentation of the change within 10 days.

10 1933. If not renewed, a license issued under the provisions of
11 this article, unless specifically excepted, expires at 12 midnight on
12 the last day of the month of the legal birth date of the licensee
13 during the second year of a two-year term. To renew an unexpired
14 license, the licensee shall, before the time at which the license
15 would otherwise expire, apply for renewal on a form prescribed by
16 the board and pay the renewal fee prescribed by this article.

17 1934. Except as otherwise provided in this article, an expired
18 license may be renewed at any time within five years after its
19 expiration by filing an application for renewal on a form
20 prescribed by the board and payment of all accrued renewal and
21 delinquency fees. If the license is renewed after its expiration, the
22 licensee, as a condition precedent to renewal, shall also pay the
23 delinquency fee prescribed by this article. Renewal under this
24 section shall be effective on the date on which the application is
25 filed, on the date on which the renewal fee is paid, or on the date
26 on which the delinquency fee, if any, is paid, whichever last occurs.
27 If so renewed, the license shall continue in effect until the
28 expiration date provided in Section 1933 that next occurs after the
29 effective date of the renewal.

30 1935. A suspended license is subject to expiration and shall
31 be renewed as provided in this article. The renewal does not entitle
32 the licensee, while the license remains suspended and until it is
33 reinstated, to engage in the licensed activity or in any other activity
34 or conduct in violation of the order or judgment by which the
35 license was suspended.

36 1936. A revoked license is subject to expiration as provided in
37 this article. A revoked license may not be renewed. If it is reinstated
38 after its expiration, the licensee, as a condition precedent to its
39 reinstatement, shall pay a reinstatement fee in an amount equal to
40 the renewal fee in effect on the last regular renewal date before the

1 date on which it is reinstated and the delinquency fee, if any,
2 accrued at the time of its revocation.

3 1937. A license that is not renewed within five years after its
4 expiration may not be renewed, restored, reinstated, or reissued.
5 The holder of the license may apply for and obtain a new license
6 upon meeting all of the requirements of a new applicant prescribed
7 in this article.

8 1938. (a) A licensee who desires an inactive license shall
9 submit an application to the board on a form provided by the
10 board.

11 (b) In order to restore an inactive license to active status, the
12 licensee shall submit an application to the board on a form
13 provided by the board, accompanied by evidence that the licensee
14 has completed the required number of hours of approved
15 continuing education in compliance with this article within the last
16 two years preceding the date of the application.

17 (c) The holder of an inactive license shall continue to pay to the
18 board the required biennial renewal fee.

19 (d) Within 30 days of receiving a request either to restore an
20 inactive license or to inactivate a license, the board shall inform
21 the applicant in writing whether the application is complete and
22 accepted for filing or is deficient and, if so, the specific information
23 required to complete the application.

24 1939. It is the intent of the board to grant and to renew
25 approval of only those educational programs for a registered
26 dental hygienist and a registered dental hygienist in alternative
27 practice that continuously maintain a high quality standard of
28 instruction.

29 1940. (a) An educational program for registered dental
30 hygienists that commences operation on or after January 1, 2005,
31 shall apply to the board for approval.

32 (b) The board may approve, provisionally approve, or deny
33 approval of an application made pursuant to subdivision (a). In
34 taking this action, the board may, in lieu of conducting its own
35 investigation, accept the findings of any commission or
36 accreditation agency that is approved by the board and adopt those
37 findings as its own.

38 1941. The board may deny an application for licensure as a
39 registered dental hygienist or registered dental hygienist in
40 alternative practice for any of the following reasons:



1 (a) *The applicant committed an act that is a ground for license*
2 *suspension or revocation under this code or that is a ground for the*
3 *denial of licensure under Section 480.*

4 (b) *The applicant, while unlicensed, committed or aided and*
5 *abetted the commission of any act for which a license is required*
6 *under this code.*

7 (c) *Another state or territory suspended or revoked the license*
8 *that it had issued to the applicant on a ground that constitutes a*
9 *basis in this state for the suspension or revocation of licensure.*

10 (d) *The applicant failed to meet any requirement under Section*
11 *1916, 1919, or 1921.*

12 1942. (a) *The board shall establish by resolution the amount*
13 *of the fees that relate to the licensing of a registered dental*
14 *hygienist and a registered dental hygienist in alternative practice.*
15 *The fees are subject to the following limitations:*

16 (1) *The application fee for an original license shall not exceed*
17 *one hundred dollars (\$100).*

18 (2) *The fee for examination for licensure as a RDH shall not*
19 *exceed six hundred dollars (\$600).*

20 (3) *The fee for examination for licensure as a RDHAP shall not*
21 *exceed the actual cost of administering the examination.*

22 (4) *The biennial renewal fee shall not exceed three hundred*
23 *dollars (\$300).*

24 (5) *The delinquency fee shall not exceed twenty-five dollars*
25 *(\$25) or one-half of the renewal fee, whichever is greater. Any*
26 *delinquent license may be restored only upon payment of all fees,*
27 *including the delinquency fee, and compliance with all other*
28 *requirements.*

29 (6) *The fee for issuance of a duplicate license shall not exceed*
30 *twenty-five dollars (\$25).*

31 (7) *The fee for each curriculum review and site evaluation of an*
32 *educational program for a registered dental hygienist in*
33 *alternative practice that is not accredited by a board-approved*
34 *agency, shall not exceed the actual cost of performing these*
35 *functions.*

36 (8) *The fee for a provider of continuing education shall not*
37 *exceed five hundred dollars (\$500) per year.*

38 (9) *The amount of fees payable in connection with permits*
39 *issued under Section 1961 is as follows:*

1 (A) *The initial permit fee is an amount equal to the renewal fee*
2 *for the applicant's license to practice dental hygiene in effect on*
3 *the last regular renewal date before the date on which the permit*
4 *is issued.*

5 (B) *If the permit will expire less than one year after its issuance,*
6 *then the initial permit fee is an amount equal to 50 percent of the*
7 *renewal fee in effect on the last regular renewal date before the*
8 *date on which the permit is issued.*

9 (b) *The renewal and delinquency fees shall be fixed by the*
10 *board at not more than the current amount of the renewal fee for*
11 *a license to practice dental hygiene nor less than five dollars (\$5).*

12 (c) *Fees fixed by the board pursuant to this section shall not be*
13 *subject to the approval of the Office of Administrative Law.*

14 (d) *Fees collected pursuant to this section shall be collected by*
15 *the board and deposited into the State Dental Hygiene Fund,*
16 *which is hereby created. All money in this fund is continuously*
17 *appropriated to the board to implement the provisions of this*
18 *article.*

19 1943. *On January 1, 2004, a percentage of the funds in the*
20 *State Dental Auxiliary Fund shall be transferred to the State*
21 *Dental Hygiene Fund based on the number of registered dental*
22 *hygienists licensed on January 1, 2004, compared to all dental*
23 *auxiliaries licensed by the Committee on Dental Auxiliaries on*
24 *January 1, 2004.*

25 1944. *The proceedings to deny, suspend, or revoke a license*
26 *under this article shall be conducted in accordance with the*
27 *provisions of Chapter 5 (commencing with Section 11500) of Part*
28 *1 of Division 3 of Title 2 of the Government Code.*

29 1945. (a) *A license issued under this article or under this*
30 *chapter to a registered dental hygienist or to a registered dental*
31 *hygienist in alternative practice may be revoked or suspended by*
32 *the board for any reason specified in this chapter for the*
33 *suspension or revocation of a license to practice dental hygiene.*

34 1946. (a) *If the board determines that the public health and*
35 *safety would be served by requiring all holders of licenses under*
36 *this article to continue their education after receiving a license, the*
37 *board may require, as a condition to license renewal, that licensees*
38 *submit assurances satisfactory to the board that they will, during*
39 *the succeeding two-year period, inform themselves of the*
40 *developments in the practice of dental hygiene occurring since the*

1 original issuance of their licenses by pursuing one or more courses
2 of study satisfactory to the board, or by other means deemed
3 equivalent by the board. The board shall adopt regulations
4 providing for the suspension of the licenses at the end of the
5 two-year period until compliance with the assurances provided for
6 in this section is accomplished.

7 (b) The board may also, as a condition of license renewal,
8 require licentiates to successfully complete a portion of the
9 required continuing education hours in specific areas adopted in
10 regulations by the board. The board may prescribe this mandatory
11 coursework within the general areas of patient care, health and
12 safety, and law and ethics. The mandatory coursework prescribed
13 by the board shall not exceed seven and one-half hours per renewal
14 period. Any mandatory coursework required by the board shall be
15 credited toward the continuing education requirements
16 established by the board pursuant to subdivision (a).

17 1947. A licensee may have his or her license revoked or
18 suspended, or may be reprimanded or placed on probation by the
19 board for unprofessional conduct, incompetence, gross
20 negligence, repeated acts of negligence in his or her profession,
21 receiving a license by mistake, or for any other cause applicable
22 to the licentiate provided in this chapter. The proceedings under
23 this article shall be conducted in accordance with Chapter 5
24 (commencing with Section 11500) of Part 1 of Division 3 of Title
25 2 of the Government Code, and the board shall have all the powers
26 granted therein.

27 1948. (a) A licensee may have his or her license revoked or
28 suspended, or may be reprimanded or placed on probation by the
29 board, for conviction of a crime substantially related to the
30 licensee's qualifications, functions, or duties. The record of
31 conviction or a copy certified by the clerk of the court or by the
32 judge in whose court the conviction is had, shall be conclusive
33 evidence of conviction.

34 (b) The board shall undertake proceedings under this section
35 upon the receipt of a certified copy of the record of conviction. A
36 plea or verdict of guilty or a conviction following a plea of nolo
37 contendere made to a charge of a felony or of any misdemeanor
38 substantially related to the licensee's qualifications, functions, or
39 duties is deemed to be a conviction within the meaning of this
40 section.

1 (c) The board may order a license suspended or revoked, or
2 may decline to issue a license, when any of the following occur:

3 (1) The time for appeal has elapsed.

4 (2) The judgment of conviction has been affirmed on appeal.

5 (3) An order granting probation is made suspending the
6 imposition of sentence, irrespective of a subsequent order under
7 any provision of the Penal Code, including, but not limited to,
8 Section 1203.4 of the Penal Code, allowing a person to withdraw
9 his or her plea of guilty and to enter a plea of not guilty, or setting
10 aside the verdict of guilty, or dismissing the accusation,
11 information, or indictment.

12 1949. The board may discipline a licensee by placing him or
13 her on probation under various terms and conditions that may
14 include, but are not limited to, the following:

15 (a) Requiring the licensee to obtain additional training or pass
16 an examination upon completion of training, or both. The
17 examination may be written, oral, or both, and may be a practical
18 or clinical examination or both, at the option of the board.

19 (b) Requiring the licensee to submit to a complete diagnostic
20 examination by one or more physicians appointed by the board, if
21 warranted by the physical or mental condition of the licensee. If
22 the board requires the licensee to submit to an examination, the
23 board shall receive and consider any other report of a complete
24 diagnostic examination given by one or more physicians of the
25 licensee's choice.

26 (c) Restricting or limiting the extent, scope, or type of practice
27 of the licensee.

28 (d) Requiring restitution of fees to the licensee's patients or
29 payers of services unless restitution has already been made.

30 (e) Providing the option of alternative community service in
31 lieu of all or part of a period of suspension in cases other than
32 violations relating to quality of care.

33 1950. Unprofessional conduct by a person licensed under this
34 article may include, but is not limited to, any of the following:

35 (a) Obtaining a fee by fraud or misrepresentation.

36 (b) Aiding or abetting an unlicensed person to practice
37 dentistry or dental hygiene.

38 (c) Aiding or abetting a licensed person to practice dentistry or
39 dental hygiene unlawfully or in a negligent or incompetent
40 manner.

1 (d) *Committing an act of gross immorality substantially related*
2 *to the practice of dentistry or dental hygiene.*

3 (e) *Using a false, assumed, or fictitious name, or any name*
4 *other than the name under which the licensee is licensed to*
5 *practice, either as an individual, firm, corporation, or otherwise,*
6 *in advertising or in a manner indicating that he or she is practicing*
7 *or will practice dental hygiene.*

8 (f) *Accepting a commission or rebate in any form for*
9 *professional services, radiograms, prescriptions, or other services*
10 *or articles supplied to patients.*

11 (g) *Using an advertising statement that deceives or misleads*
12 *the public.*

13 (h) *Advertising professional superiority or performance of*
14 *professional services in a superior manner. This subdivision shall*
15 *not prohibit advertising permitted by subdivision (h) of Section*
16 *651.*

17 (i) *Employing or using solicitors.*

18 (j) *Advertising in violation of Section 651.*

19 (k) *Advertising to guarantee any dental hygiene service, or to*
20 *perform any dental hygiene service painlessly. This subdivision*
21 *shall not prohibit advertising permitted by Section 651.*

22 (l) *Violating a provision of law regulating the procurement,*
23 *dispensing, or administration of dangerous drugs, as defined in*
24 *Article 7 (commencing with Section 4211) of Chapter 9, or*
25 *controlled substances, as defined in Division 10 (commencing with*
26 *Section 11000) of the Health and Safety Code.*

27 (m) *Violating a provision of this division.*

28 (n) *Permitting a person who has not met the requirements of*
29 *Section 1656 to operate dental radiographic equipment.*

30 (o) *Threatening or harassing a patient or licensee for providing*
31 *evidence in a possible or actual disciplinary action or other legal*
32 *action, or discharging an employee primarily based on the*
33 *employee's attempt to comply or aid in complying with the*
34 *provisions of this chapter.*

35 (p) *Suspension or revocation of a license issued, or discipline*
36 *imposed, by another state or territory on grounds that would be a*
37 *basis of discipline in this state.*

38 (q) *Altering a patient's record with intent to deceive.*

- 1 (r) *Unsanitary or unsafe office conditions, as determined by the*
2 *customary practice and standards of the dental or dental hygiene*
3 *profession.*
- 4 (s) *Abandoning a patient without written notice to the patient*
5 *that treatment is to be discontinued before the patient has ample*
6 *opportunity to secure the services of another licensee, provided the*
7 *health of the patient is not jeopardized.*
- 8 (t) *Willfully misrepresenting facts relating to a disciplinary*
9 *action to the patients of a disciplined licensee.*
- 10 (u) *Using fraud to procure a license issued pursuant to this*
11 *chapter.*
- 12 (v) *Action or conduct that would have warranted the denial of*
13 *the license.*
- 14 (w) *Failing to report to the board in writing within seven days*
15 *any of the following:*
- 16 (1) *The death of his or her patient during the performance of*
17 *a dental hygiene procedure.*
- 18 (2) *The discovery of the death of a patient whose death is*
19 *related to a dental hygiene procedure performed by the licensee.*
- 20 (3) *Except for a scheduled hospitalization, removing a patient*
21 *to a hospital or emergency center for medical treatment for a*
22 *period exceeding 24 hours as a result of dental hygiene treatment.*
23 *Upon receipt of a report pursuant to this subdivision, the board*
24 *may conduct an inspection of the dental or dental hygiene office*
25 *if the board finds that it is necessary.*
- 26 (x) *Participating in or operating a group advertising and*
27 *referral service that is in violation of Section 650.2.*
- 28 (z) *Engaging in the practice of dental hygiene with an expired*
29 *license.*
- 30 (aa) *Except for good cause, the knowing failure to protect*
31 *patients by failing to follow infection control guidelines of the*
32 *board, thereby risking transmission of blood-borne infectious*
33 *diseases from dental hygienist to patient, from patient to patient,*
34 *and from patient to dental hygienist. In administering this*
35 *subdivision, the board shall consider referencing the standards,*
36 *regulations, and guidelines of the State Department of Health*
37 *Services developed pursuant to Section 1250.11 of the Health and*
38 *Safety Code and the standards, guidelines, and regulations*
39 *pursuant to the California Occupational Safety and Health Act of*
40 *1973 (Part 1 (commencing with Section 6300), Division 5, Labor*

Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Dental Board of California, the Medical Board of California, the Board of Podiatric Medicine, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision. The board shall seek to ensure that licensees and others regulated by the board are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

1951. It is unprofessional conduct for a person licensed under this article to do any of the following:

(a) Obtain or possess in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist, administer to himself or herself, a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or a dangerous drug, as defined in Article 8 (commencing with Section 4211) of Chapter 9.

(b) Use a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, a dangerous drug, as defined in Article 8 (commencing with Section 4211) of Chapter 9, or alcoholic beverages or other intoxicating substances, to an extent or in a manner dangerous or injurious to himself or herself, to any person, or the public to the extent that the use impairs the licensee's ability to conduct with safety to the public the practice authorized by his or her license.

(c) The conviction of a charge of violating any federal statute or rules, or any statute or rule of this state, regulating controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug, as defined in Article 8 (commencing with Section 4211) of Chapter 9, or the conviction of more than one misdemeanor, or any felony, involving the use or consumption of alcohol or drugs, if the conviction is substantially related to the practice authorized by his or her license. The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of a violation of this section. A plea or verdict of guilty or a conviction following a plea of nolo

1 *contendere is deemed to be a conviction within the meaning of this*
2 *section; the board may order the license suspended or revoked, or*
3 *may decline to issue a license, when the time for appeal has*
4 *elapsed or the judgment of conviction has been affirmed on appeal,*
5 *or when an order granting probation is made suspending*
6 *imposition of sentence, irrespective of a subsequent order under*
7 *any provision of the Penal Code, including, but not limited to,*
8 *Section 1203.4 of the Penal Code, allowing a person to withdraw*
9 *his or her plea of guilty and to enter a plea of not guilty, or setting*
10 *aside the verdict of guilty, or dismissing the accusation,*
11 *information, or indictment.*

12 1952. (a) *A registered dental hygienist and registered dental*
13 *hygienist in alternative practice who performs a service on a*
14 *patient in a dental office shall identify himself or herself in the*
15 *patient record by signing his or her name or identification number*
16 *and initials next to the service performed, and shall date those*
17 *treatment entries in the record.*

18 (b) *A repeated violation of this section constitutes*
19 *unprofessional conduct.*

20 1953. (a) *It is unprofessional conduct for a person licensed*
21 *under this article to perform, or hold himself or herself out as able*
22 *to perform, professional services beyond the scope of his or her*
23 *license and field of competence, as established by his or her*
24 *education, experience, and training. This includes, but is not*
25 *limited to, using an instrument or device in a manner that is not in*
26 *accordance with the customary standards and practices of the*
27 *dental hygiene profession.*

28 (b) *This section shall not apply to research conducted by*
29 *accredited dental schools or dental hygiene schools, or to research*
30 *conducted pursuant to an investigational device exemption issued*
31 *by the United States Food and Drug Administration.*

32 1954. (a) (1) *A licensee who fails or refuses to comply with*
33 *a request for a patient's dental hygiene records that is*
34 *accompanied by that patient's written authorization for release of*
35 *the records to the board, within 15 days of receiving the request and*
36 *authorization, shall pay to the board a civil penalty of two hundred*
37 *fifty dollars (\$250) per day for each day that the documents have*
38 *not been produced after the 15th day, up to a maximum of five*
39 *thousand dollars (\$5,000), unless the licensee is unable to provide*
40 *the documents within this time period for good cause.*

(2) A health care facility shall comply with a request for the dental hygiene records of a patient that is accompanied by that patient's written authorization for release of records to the board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's dental hygiene records to the board within 30 days of receiving this request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to two hundred fifty dollars (\$250) per day for each day that the documents have not been produced after the 30th day, up to a maximum of five thousand dollars (\$5,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the board in obtaining the patient's authorization. The board shall pay the reasonable cost of copying the dental hygiene records.

(b) (1) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the board shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(2) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars (\$5,000). The fine shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of patient records to the board, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the board a civil penalty of

1 up to one thousand dollars (\$1,000) per day for each day that the
2 documents have not been produced, up to ten thousand dollars
3 (\$10,000), after the date by which the court order requires the
4 documents to be produced, unless it is determined that the order
5 is unlawful or invalid. Any statute of limitations applicable to the
6 filing of an accusation by the board against a licensee shall be
7 tolled during the period the health care facility is out of
8 compliance with the court order and during any related appeals.

9 (4) A health care facility that fails or refuses to comply with a
10 court order, issued in the enforcement of a subpoena, mandating
11 the release of records to the board is guilty of a misdemeanor
12 punishable by a fine payable to the board not to exceed five
13 thousand dollars (\$5,000). Any statute of limitations applicable to
14 the filing of an accusation by the board against a licensee shall be
15 tolled during the period the health care facility is out of
16 compliance with the court order and during any related appeals.

17 (c) Multiple acts by a licensee in violation of subdivision (b)
18 shall be punishable by a fine not to exceed five thousand dollars
19 (\$5,000) or by imprisonment in a county jail not exceeding six
20 months, or by both that fine and imprisonment. Multiple acts by a
21 health care facility in violation of subdivision (b) shall be
22 punishable by a fine not to exceed five thousand dollars (\$5,000),
23 shall be reported to the State Department of Health Services, and
24 shall be considered as grounds for disciplinary action with respect
25 to licensure, including suspension or revocation of the license or
26 certificate.

27 (d) A failure or refusal to comply with a court order issued in
28 the enforcement of a subpoena mandating the release of records to
29 the board constitutes unprofessional conduct and is grounds for
30 suspension or revocation of his or her license.

31 (e) Imposition of the civil penalties authorized by this section
32 shall be in accordance with the Administrative Procedure Act
33 (Chapter 5 (commencing with Section 11500) of Division 3 of Title
34 2 of the Government Code).

35 (f) For the purposes of this section, a “health care facility”
36 means a clinic or health care facility licensed or exempt from
37 licensure pursuant to Division 2 (commencing with Section 1200)
38 of the Health and Safety Code.

39 1955. It is unprofessional conduct for a person licensed under
40 this article to require, either directly or through an office policy,

1 or knowingly permit the delivery of dental hygiene care that
2 discourages necessary treatment, or permits clearly excessive,
3 incompetent, unnecessary, or grossly negligent treatment, or
4 repeated negligent acts, as determined by the standard of practice
5 in the community.

6 1956. (a) A person whose license has been revoked or
7 suspended, who has been placed on probation, or whose license
8 was surrendered pursuant to a stipulated settlement as a condition
9 to avoid a disciplinary administrative hearing, may petition the
10 board for reinstatement or modification of penalty, including
11 modification or termination of probation, after a period of not less
12 than the following minimum periods have elapsed from the
13 effective date of the decision ordering disciplinary action:

14 (1) At least three years for reinstatement of a license revoked for
15 unprofessional conduct or surrendered pursuant to a stipulated
16 settlement as a condition to avoid an administrative disciplinary
17 hearing.

18 (2) At least two years for early termination, or modification of
19 a condition, of a probation of three years or more.

20 (3) At least one year for modification of a condition, or
21 reinstatement of a license revoked for mental or physical illness,
22 or termination, or modification of a condition, of a probation of
23 less than three years.

24 (b) The petition shall state any fact required by the board.

25 (c) The petition may be heard by the board, or the board may
26 assign the petition to an administrative law judge designated in
27 Section 11371 of the Government Code.

28 (d) In considering reinstatement or modification of penalty, the
29 board or the administrative law judge hearing the petition may
30 consider the following:

31 (1) All activities of the petitioner since the disciplinary action
32 was taken.

33 (2) The offense for which the petitioner was disciplined.

34 (3) The petitioner's activities during the time the license,
35 certificate, or permit was in good standing.

36 (4) The petitioner's rehabilitative efforts, general reputation
37 for truth, and professional ability.

38 (e) The hearing may be continued from time to time as the board
39 or the administrative law judge as designated in Section 11371 of
40 the Government Code finds necessary.

1 (f) The board or the administrative law judge may impose
2 necessary terms and conditions on the licensee in reinstating a
3 license, certificate, or permit or modifying a penalty.

4 (g) A petition shall not be considered while the petitioner is
5 under sentence for any criminal offense, including any period
6 during which the petitioner is on court-imposed probation or
7 parole.

8 (h) A petition shall not be considered while there is an
9 accusation or petition to revoke probation pending against the
10 person.

11 (i) The board may deny without a hearing or argument any
12 petition filed pursuant to this section within a period of two years
13 from the effective date of the prior decision following a hearing
14 under this section. Nothing in this section shall be deemed to alter
15 Sections 822 and 823.

16 1957. A person, company, or association is guilty of a
17 misdemeanor, and upon conviction, shall be punished by
18 imprisonment in a county jail not less than 10 days nor more than
19 one year, or by a fine of not less than one hundred dollars
20 (\$100) nor more than one thousand five hundred dollars (\$1,500),
21 or by both that fine and imprisonment, who does any of the
22 following:

23 (a) Assumes the degree of “registered dental hygienist,” or
24 “registered dental hygienist in alternative practice” or appends
25 the letters “R.D.H.” or “R.D.H.A.P.” to his or her name without
26 having had the right to assume the title conferred upon him or her
27 through licensure.

28 (b) Assumes any title, or appends any letters to his or her name,
29 with the intent to represent falsely that he or she has received a
30 dental hygiene degree or license.

31 (c) Engages in the practice of dental hygiene without causing
32 to be displayed in a conspicuous place in his or her office his or
33 her license to practice dental hygiene.

34 (d) Within 10 days after demand is made by the executive officer
35 of the board, fails to furnish to the board the name and address of
36 all persons practicing or assisting in the practice of dental hygiene
37 in the office of the person, company, or association, at any time
38 within 60 days prior to the demand, together with a sworn
39 statement showing under and by what license or authority this
40 person, company, or association and any employees are or have

1 *been practicing or assisting in the practice of dental hygiene. This*
 2 *sworn statement shall not be used in any prosecution under this*
 3 *section.*

4 *(e) Is under the influence of alcohol or a controlled substance*
 5 *while engaged in the practice of dental hygiene in actual*
 6 *attendance on patients to an extent that impairs his or her ability*
 7 *to conduct the practice of dental hygiene with safety to patients and*
 8 *the public.*

9 *1958. A person who holds a valid, unrevoked, and*
 10 *unsuspended certificate as a registered dental hygienist or*
 11 *registered dental hygienist in alternative practice under this*
 12 *chapter may append the letters “R.D.H.” or “R.D.H.A.P.” to his*
 13 *or her name.*

14 *1959. For the first offense, a person is guilty of a misdemeanor*
 15 *and shall be punishable by a fine of not less than two hundred*
 16 *dollars (\$200) or more than three thousand dollars (\$3,000), or by*
 17 *imprisonment in a county jail for not to exceed six months, or both,*
 18 *and for the second or a subsequent offense is guilty of a felony and*
 19 *upon conviction thereof shall be punished by a fine of not less than*
 20 *two thousand dollars (\$2,000) nor more than six thousand dollars*
 21 *(\$6,000), or by imprisonment in the state prison, or by both that*
 22 *fine and imprisonment, who does any of the following:*

23 *(a) Sells or barter or offers to sell or barter a dental hygiene*
 24 *degree or a license or transcript made or purporting to be made*
 25 *pursuant to the laws regulating the license of dental hygienists.*

26 *(b) Purchases or procures by barter a diploma, license, or*
 27 *transcript with intent that it shall be used in evidence of the*
 28 *holder’s qualification to practice dental hygiene, or in fraud of the*
 29 *laws regulating the practice.*

30 *(c) With fraudulent intent, makes, attempts to make,*
 31 *counterfeits, or materially alters a diploma, certificate, or*
 32 *transcript.*

33 *(d) Uses, or attempts or causes to be used, any diploma,*
 34 *certificate, or transcript that has been purchased, fraudulently*
 35 *issued, counterfeited, or materially altered, either as a license to*
 36 *practice dental hygiene, or in order to procure licensure as a*
 37 *registered dental hygienist or registered dental hygienist in*
 38 *alternative practice.*

1 (e) *In an affidavit required of an applicant for an examination*
2 *or license under this chapter, willfully makes a false statement in*
3 *a material regard.*

4 (f) *Practices dental hygiene or offers to practice dental*
5 *hygiene, as defined in this chapter, either without a license, or*
6 *when his or her license has been revoked or suspended.*

7 (g) *Under any false, assumed or fictitious name, either as an*
8 *individual, firm, corporation or otherwise, or any name other than*
9 *the name under which he or she is licensed, practices, advertises,*
10 *or in any other manner indicates that he or she practices or will*
11 *practice dental hygiene, except a name specified in a valid permit*
12 *issued pursuant to Section 1962.*

13 1960. *A person who willfully, under circumstances that cause*
14 *risk of bodily harm, serious physical or mental illness, or death,*
15 *practices, attempts to practice, advertises, or holds himself or*
16 *herself out as practicing dental hygiene without having at the time*
17 *of so doing a valid, unrevoked, and unsuspended license as*
18 *provided in this chapter, is guilty of a crime, punishable by*
19 *imprisonment in a county jail for up to one year. The remedy*
20 *provided in this section shall not preclude any other remedy*
21 *provided by law.*

22 1961. (a) *An association or partnership or corporation, or*
23 *group of three or more registered dental hygienists or registered*
24 *dental hygienists in alternative practice, engaging in practice*
25 *under a name that would otherwise be in violation of Section 1959,*
26 *may practice under that name if the association, partnership,*
27 *corporation, or group holds an unexpired, unsuspended, and*
28 *unrevoked permit issued by the board under this section.*

29 (b) *An individual registered dental hygienist, registered dental*
30 *hygienist in alternative practice, or pair of registered dental*
31 *hygienists or registered dental hygienists in alternative practice*
32 *who practice dental hygiene under a name that would otherwise*
33 *violate Section 1959 may practice under that name if the licensees*
34 *hold a valid permit issued by the board under this section. The*
35 *board shall issue a written permit authorizing the holder to use a*
36 *name specified in the permit in connection with the holder's*
37 *practice if the board finds all of the following:*

38 (1) *The applicant is a duly licensed registered dental hygienist*
39 *in alternative practice.*

1 (2) *The place where the applicant practices is owned or leased*
2 *by the applicant, and the practice conducted at the place is wholly*
3 *owned and entirely controlled by the applicant.*

4 (3) *The name under which the applicant proposes to operate*
5 *contains at least one of the following designations: “dental*
6 *hygiene group,” “dental hygiene practice,” or “dental hygiene*
7 *office,” contains the family name of one or more of the past,*
8 *present, or prospective associates, partners, shareholders, or*
9 *members of the group, and is in conformity with Section 651 and*
10 *subdivisions (i) and (l) of Section 1950.*

11 (4) *All licensed persons practicing at the location designated*
12 *in the application hold valid licenses and no charges of*
13 *unprofessional conduct are pending against any person practicing*
14 *at that location.*

15 (5) *A permit issued under this section shall expire and become*
16 *invalid unless renewed in the manner provided for in this chapter*
17 *for the renewal of certificates issued under this chapter.*

18 (6) *A permit issued under this section may be revoked or*
19 *suspended if the board finds that any requirement for original*
20 *issuance of a permit is no longer being fulfilled by the*
21 *permitholder. Proceedings for revocation or suspension shall be*
22 *governed by the Administrative Procedure Act (Chapter 3.5*
23 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
24 *2 of the Government Code).*

25 (7) *If charges of unprofessional conduct are filed against the*
26 *holder of a permit issued under this section, or a member of an*
27 *association, partnership, group, or corporation to whom a permit*
28 *has been issued under this section, proceedings shall not be*
29 *commenced for revocation or suspension of the permit until a final*
30 *determination of the charges of unprofessional conduct is made,*
31 *unless the charges have resulted in revocation or suspension of a*
32 *license.*

33 1962. *The board may refer a complaint for violation of any*
34 *part of this article before any court of competent jurisdiction, and*
35 *may by its officers, counsel and agents, assist in presenting the law*
36 *or facts at the trial. The district attorney of each county in this state*
37 *shall prosecute all violations of this article in their respective*
38 *counties in which the violations occur.*

39 1963. *In addition to the other proceedings provided for in this*
40 *article, on application of the board, the superior court of any*

1 county shall issue an injunction to restrain an unlicensed person
2 from conducting the practice of dental hygiene, as defined in this
3 article.

4 1964. If a person has engaged in or is about to engage in an
5 act that constitutes an offense against this chapter, the superior
6 court of any county, on application of 10 or more persons holding
7 licenses to practice dental hygiene issued under this article, may
8 issue an injunction or other appropriate order restraining that
9 conduct. Proceedings under this section shall be governed by
10 Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of
11 the Code of Civil Procedure.

12 1965. (a) The board may deny an application to take an
13 examination for licensure as a registered dental hygienist or a
14 registered dental hygienist in alternative practice at any time prior
15 to licensure.

16 (b) The board may deny the issuance of a license to an
17 applicant for licensure as a registered dental hygienist or a
18 registered dental hygienist in alternative practice if the applicant
19 has done any of the following:

20 (1) Committed any act that would be grounds for the
21 suspension or revocation of a license pursuant to this code.

22 (2) Committed any act or been convicted of a crime constituting
23 grounds for denial of licensure under Section 480.

24 (3) Committed or aided and abetted the commission of an act
25 while unlicensed for which a license is required by this chapter.

26 (4) Had suspended or revoked a license issue by another state
27 or territory on grounds that would constitute a basis for suspension
28 or revocation of licensure in this state.

29 (c) The proceedings under this section shall be conducted in
30 accordance with Chapter 5 (commencing with Section 11500) of
31 Part 1 of Division 3 of Title 2 of the Government Code, and the
32 board shall have all the powers granted therein.

33 1966. (a) An applicant for licensure under this article shall
34 furnish fingerprint cards for submission to state and federal
35 criminal justice agencies, including, but not limited to, the Federal
36 Bureau of Investigation, in order to establish the identity of the
37 applicant and in order to determine whether the applicant has a
38 record of any criminal convictions in this state or in any other
39 jurisdiction, including foreign countries.

1 **(b)** *The information obtained as a result of the fingerprinting*
2 *shall be used in accordance with Section 11105 of the Penal Code,*
3 *and to determine whether the applicant is subject to denial of*
4 *licensure pursuant to Division 1.5 (commencing with Section 475)*
5 *or Section 1965.*

6 **1967.** *The board shall adopt regulations to implement the*
7 *requirements of this article on matters including, but not limited*
8 *to, the following:*

9 **(a)** *Educational standards, admissions criteria, and*
10 *curriculum.*

11 **(b)** *Application and examination requirements.*

12 **(c)** *Continuing education requirements and certification of*
13 *continuing education providers.*

14 **1968.** *This article shall become operative on July 1, 2007.*

15 **SEC. 45.** *Section 4999.2 of the Business and Professions Code*
16 *is amended to read:*

17 **4999.2.** **(a)** In order to obtain and maintain a registration,
18 in-state or out-of-state telephone medical advice services shall
19 comply with the requirements established by the department.
20 Those requirements shall include, but shall not be limited to, all of
21 the following:

22 **(1)** **(A)** Ensuring that all staff who provide medical advice
23 services are appropriately licensed, certified, or registered as a
24 physician and surgeon pursuant to Chapter 5 (commencing with
25 Section 2000) or the Osteopathic Initiative Act, as a dentist *or*
26 *dental hygienist* pursuant to Chapter 4 (commencing with Section
27 1600), ~~as a dental hygienist pursuant to Section 1758 et seq., as a~~
28 psychologist pursuant to Chapter 6.6 (commencing with Section
29 2900), as a marriage and family therapist pursuant to Chapter 13
30 (commencing with Section 4980), as an optometrist pursuant to
31 Chapter 7 (commencing with Section 3000), as a chiropractor
32 pursuant to the Chiropractic Initiative Act, and operating
33 consistent with the laws governing their respective scopes of
34 practice in the state within which they provide telephone medical
35 advice services, except as provided in paragraph (2).

36 **(B)** Ensuring that all staff who provide telephone medical
37 advice services from an out-of-state location are health care
38 professionals as identified in subparagraph (A) that are licensed,
39 registered, or certified in the state within which they are providing

1 the telephone medical advice services and operating consistent
2 with the laws governing their respective scopes of practice.

3 (2) Ensuring that all registered nurses providing telephone
4 medical advice services to both in-state and out-of-state business
5 entities registered pursuant to this chapter shall be licensed
6 pursuant to Chapter 6 (commencing with Section 2700).

7 (3) Ensuring that the telephone medical advice provided is
8 consistent with good professional practice.

9 (4) Maintaining records of telephone medical advice services,
10 including records of complaints, provided to patients in California
11 for a period of at least five years.

12 (5) Complying with all directions and requests for information
13 made by the department.

14 (b) To the extent permitted by Article VII of the California
15 Constitution, the department may contract with a private nonprofit
16 accrediting agency to evaluate the qualifications of applicants for
17 registration pursuant to this chapter, and to make
18 recommendations to the department.

19 *SEC. 46. Section 4999.7 of the Business and Professions Code*
20 *is amended to read:*

21 4999.7. (a) Nothing in this section shall limit, preclude, or
22 otherwise interfere with the practices of other persons licensed or
23 otherwise authorized to practice, under any other provision of this
24 division, telephone medical advice services consistent with the
25 laws governing their respective scopes of practice, or licensed
26 under the Osteopathic Initiative Act or the Chiropractic Initiative
27 Act and operating consistent with the laws governing their
28 respective scopes of practice.

29 (b) For the purposes of this chapter, “telephone medical
30 advice” means a telephonic communication between a patient and
31 a health care professional in which the health care professional’s
32 primary function is to provide to the patient a telephonic response
33 to the patient’s questions regarding his or her or a family member’s
34 medical care or treatment. “Telephone medical advice” includes
35 assessment, evaluation, or advice provided to patients or their
36 family members.

37 (c) For the purposes of this chapter, “health care professional”
38 is a staff person described in Section 4999.2 who provides medical
39 advice services and is appropriately licensed, certified, or
40 registered as a registered nurse pursuant to Chapter 6

(commencing with Section 2700), as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist *or dental hygienist* pursuant to Chapter 4 (commencing with Section 1600), ~~as a dental hygienist pursuant to Sections 1760 to 1775, inclusive,~~ as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and who is operating consistent with the laws governing his or her respective scopes of practice in the state in which he or she provides telephone medical advice services.

SEC. 47. Section 44876 of the Education Code is amended to read:

44876. The qualifications for a dental hygienist shall be a valid ~~certificate~~ *license* issued by the *California Dental Hygiene Board of Dental Examiners of California* ~~or by the Dental Board of California~~ and either a health and development credential, a standard designated services credential with a specialization in health, or a services credential with a specialization in health.

SEC. 48. Section 1348.8 of the Health and Safety Code is amended to read:

1348.8. (a) Every health care service plan that provides, operates, or contracts for, telephone medical advice services to its enrollees and subscribers shall do all of the following:

(1) Ensure that the in-state or out-of-state telephone medical advice service is registered pursuant to Chapter 15 (commencing with Section 4999) of Division 2 of the Business and Professions Code.

(2) Ensure that the staff providing telephone medical advice services for the in-state or out-of-state telephone medical advice service are licensed as follows:

(A) For full service health care service plans, the staff hold a valid California license as a registered nurse or a valid license in the state within which they provide telephone medical advice services as a physician and surgeon or physician assistant, and are operating in compliance with the laws governing their respective scopes of practice.

1 (B) (i) For specialized health care service plans providing,
2 operating, or contracting with a telephone medical advice service
3 in California, the staff shall be appropriately licensed, registered,
4 or certified as a physician and surgeon pursuant to Chapter 5
5 (commencing with Section 2000) of Division 2 of the Business and
6 Professions Code or the Osteopathic Initiative Act, as a registered
7 nurse pursuant to Chapter 6 (commencing with Section 2700) of
8 Division 2 of the Business and Professions Code, as a dentist *or as*
9 *a dental hygienist* pursuant to Chapter 4 (commencing with
10 Section 1600) of Division 2 of the Business and Professions Code,
11 ~~as a dental hygienist pursuant to Article 7 (commencing with~~
12 ~~Section 1740) of Chapter 4 of Division 2 of the Business and~~
13 ~~Professions Code~~, as a psychologist pursuant to Chapter 6.6
14 (commencing with Section 2900) of Division 2 of the Business and
15 Professions Code, as a marriage and family therapist pursuant to
16 Chapter 13 (commencing with Section 4980) of Division 2 of the
17 Business and Professions Code, as a licensed clinical social worker
18 pursuant to Chapter 14 (commencing with Section 4990) of
19 Division 2 of the Business and Professions Code, as an optometrist
20 pursuant to Chapter 7 (commencing with Section 3000) of
21 Division 2 of the Business and Professions Code, or as a
22 chiropractor pursuant to the Chiropractic Initiative Act, and
23 operating in compliance with the laws governing their respective
24 scopes of practice.

25 (ii) For specialized health care service plans providing,
26 operating, or contracting with an out-of-state telephone medical
27 advice service, the staff shall be health care professionals, as
28 identified in clause (i), who are licensed, registered, or certified in
29 the state within which they are providing the telephone medical
30 advice services and are operating in compliance with the laws
31 governing their respective scopes of practice. All registered nurses
32 providing telephone medical advice services to both in-state and
33 out-of-state business entities registered pursuant to this chapter
34 shall be licensed pursuant to Chapter 6 (commencing with Section
35 2700) of Division 2 of the Business and Professions Code.

36 (3) Ensure that every full service health care service plan
37 provides for a physician and surgeon who is available on an on-call
38 basis at all times the service is advertised to be available to
39 enrollees and subscribers.



(4) Ensure that staff members handling enrollee or subscriber calls, who are not licensed, certified, or registered as required by paragraph (2), do not provide telephone medical advice. Those staff members may ask questions on behalf of a staff member who is licensed, certified, or registered as required by paragraph (2), in order to help ascertain the condition of an enrollee or subscriber so that the enrollee or subscriber can be referred to licensed staff. However, under no circumstances shall those staff members use the answers to those questions in an attempt to assess, evaluate, advise, or make any decision regarding the condition of an enrollee or subscriber or determine when an enrollee or subscriber needs to be seen by a licensed medical professional.

(5) Ensure that no staff member uses a title or designation when speaking to an enrollee or subscriber that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered professional described in Section 4999.2 unless the staff member is a licensed, certified, or registered professional.

(6) Ensure that the in-state or out-of-state telephone medical advice service designates an agent for service of process in California and files this designation with the director.

(7) Requires that the in-state or out-of-state telephone medical advice service makes and maintains records for a period of five years after the telephone medical advice services are provided, including, but not limited to, oral or written transcripts of all medical advice conversations with the health care service plan's enrollees or subscribers in California and copies of all complaints. If the records of telephone medical advice services are kept out of state, the health care service plan shall, upon the request of the director, provide the records to the director within 10 days of the request.

(8) Ensure that the telephone medical advice services are provided consistent with good professional practice.

(b) The director shall forward to the Department of Consumer Affairs, within 30 days of the end of each calendar quarter, data regarding complaints filed with the department concerning telephone medical advice services.

(c) For the purposes of this section, "telephone medical advice" means a telephonic communication between a patient and a health care professional in which the health care professional's primary function is to provide to the patient a telephonic response

1 to the patient's questions regarding his or her or a family member's
2 medical care or treatment. "Telephone medical advice" includes
3 assessment, evaluation, or advice provided to patients or their
4 family members.

5 *SEC. 49. Section 14132 of the Welfare and Institutions Code*
6 *is amended to read:*

7 14132. The following is the schedule of benefits under this
8 chapter:

9 (a) Outpatient services are covered as follows:

10 Physician, hospital or clinic outpatient, surgical center,
11 respiratory care, optometric, chiropractic, psychology, podiatric,
12 occupational therapy, physical therapy, speech therapy, audiology,
13 acupuncture to the extent federal matching funds are provided for
14 acupuncture, and services of persons rendering treatment by
15 prayer or healing by spiritual means in the practice of any church
16 or religious denomination insofar as these can be encompassed by
17 federal participation under an approved plan, subject to utilization
18 controls.

19 (b) Inpatient hospital services, including, but not limited to,
20 physician and podiatric services, physical therapy and
21 occupational therapy, are covered subject to utilization controls.

22 (c) Nursing facility services, subacute care services, and
23 services provided by any category of intermediate care facility for
24 the developmentally disabled, including podiatry, physician, nurse
25 practitioner services, and prescribed drugs, as described in
26 subdivision (d), are covered subject to utilization controls.
27 Respiratory care, physical therapy, occupational therapy, speech
28 therapy, and audiology services for patients in nursing facilities
29 and any category of intermediate care facility for the
30 developmentally disabled are covered subject to utilization
31 controls.

32 (d) Purchase of prescribed drugs is covered subject to the
33 Medi-Cal List of Contract Drugs and utilization controls.

34 (e) Outpatient dialysis services and home hemodialysis
35 services, including physician services, medical supplies, drugs and
36 equipment required for dialysis, are covered, subject to utilization
37 controls.

38 (f) Anesthesiologist services when provided as part of an
39 outpatient medical procedure, nurse anesthetist services when
40 rendered in an inpatient or outpatient setting under conditions set

1 forth by the director, outpatient laboratory services, and X-ray
2 services are covered, subject to utilization controls. Nothing in this
3 subdivision shall be construed to require prior authorization for
4 anesthesiologist services provided as part of an outpatient medical
5 procedure or for portable X-ray services in a nursing facility or any
6 category of intermediate care facility for the developmentally
7 disabled.

8 (g) Blood and blood derivatives are covered.

9 (h) ~~(1)~~ Emergency and essential diagnostic and restorative
10 dental services, except for orthodontic, fixed bridgework, and
11 partial dentures that are not necessary for balance of a complete
12 artificial denture, are covered, subject to utilization controls. The
13 utilization controls shall allow emergency and essential diagnostic
14 and restorative dental services and prostheses that are necessary to
15 prevent a significant disability or to replace previously furnished
16 prostheses which are lost or destroyed due to circumstances
17 beyond the beneficiary's control. Notwithstanding the foregoing,
18 the director may by regulation provide for certain fixed artificial
19 dentures necessary for obtaining employment or for medical
20 conditions that preclude the use of removable dental prostheses,
21 and for orthodontic services in cleft palate deformities
22 administered by the department's California Children Services
23 Program.

24 ~~(2) For persons 21 years of age or older, the services specified~~
25 ~~in paragraph (1) shall be provided subject to the following~~
26 ~~conditions:~~

27 ~~(A) Periodontal treatment is not a benefit.~~

28 ~~(B) Endodontic therapy is not a benefit except for vital~~
29 ~~pulpotomy.~~

30 ~~(C) Laboratory processed crowns are not a benefit.~~

31 ~~(D) Removable prosthetics shall be a benefit only for patients~~
32 ~~as a requirement for employment.~~

33 ~~(E) The director may, by regulation, provide for the provision~~
34 ~~of fixed artificial dentures that are necessary for medical~~
35 ~~conditions that preclude the use of removable dental prostheses.~~

36 ~~(F) Notwithstanding the conditions specified in subparagraphs~~
37 ~~(A) to (E), inclusive, the department may approve services for~~
38 ~~persons with special medical disorders subject to utilization~~
39 ~~review.~~

40 ~~(3) Paragraph (2) shall become inoperative July 1, 1995.~~

1 (i) Medical transportation is covered, subject to utilization
2 controls.

3 (j) Home health care services are covered, subject to utilization
4 controls.

5 (k) Prosthetic and orthotic devices and eyeglasses are covered,
6 subject to utilization controls. Utilization controls shall allow
7 replacement of prosthetic and orthotic devices and eyeglasses
8 necessary because of loss or destruction due to circumstances
9 beyond the beneficiary's control. Frame styles for eyeglasses
10 replaced pursuant to this subdivision shall not change more than
11 once every two years, unless the department so directs.

12 Orthopedic and conventional shoes are covered when provided
13 by a prosthetic and orthotic supplier on the prescription of a
14 physician and when at least one of the shoes will be attached to a
15 prosthesis or brace, subject to utilization controls. Modification of
16 stock conventional or orthopedic shoes when medically indicated,
17 is covered subject to utilization controls. When there is a clearly
18 established medical need that cannot be satisfied by the
19 modification of stock conventional or orthopedic shoes,
20 custom-made orthopedic shoes are covered, subject to utilization
21 controls.

22 (l) Hearing aids are covered, subject to utilization controls.
23 Utilization controls shall allow replacement of hearing aids
24 necessary because of loss or destruction due to circumstances
25 beyond the beneficiary's control.

26 (m) Durable medical equipment and medical supplies are
27 covered, subject to utilization controls. The utilization controls
28 shall allow the replacement of durable medical equipment and
29 medical supplies when necessary because of loss or destruction
30 due to circumstances beyond the beneficiary's control. The
31 utilization controls shall allow authorization of durable medical
32 equipment needed to assist a disabled beneficiary in caring for a
33 child for whom the disabled beneficiary is a parent, stepparent,
34 foster parent, or legal guardian, subject to the availability of
35 federal financial participation. The department shall adopt
36 emergency regulations to define and establish criteria for assistive
37 durable medical equipment in accordance with the rulemaking
38 provisions of the Administrative Procedure Act (Chapter 3.5
39 (commencing with Section 11340) of Part 1 of Division 3 of Title
40 2 of the Government Code).



1 (n) Family planning services are covered, subject to utilization
2 controls.

3 (o) Inpatient intensive rehabilitation hospital services,
4 including respiratory rehabilitation services, in a general acute
5 care hospital are covered, subject to utilization controls, when
6 either of the following criteria are met:

7 (1) A patient with a permanent disability or severe impairment
8 requires an inpatient intensive rehabilitation hospital program as
9 described in Section 14064 to develop function beyond the limited
10 amount that would occur in the normal course of recovery.

11 (2) A patient with a chronic or progressive disease requires an
12 inpatient intensive rehabilitation hospital program as described in
13 Section 14064 to maintain the patient's present functional level as
14 long as possible.

15 (p) Adult day health care is covered in accordance with Chapter
16 8.7 (commencing with Section 14520).

17 (q) (1) Application of fluoride, or other appropriate fluoride
18 treatment as defined by the department, other prophylaxis
19 treatment for children 17 years of age and under, are covered.

20 (2) All dental hygiene services provided by a registered dental
21 hygienist *or a registered dental hygienist* in alternative practice
22 pursuant to ~~Sections 1768 and 1770~~ *Article 9 (commencing with*
23 *Section 1900) of Chapter 4 of Division 2 of the Business and*
24 *Professions Code* may be covered as long as they are within the
25 scope of Denti-Cal benefits and they are necessary services
26 provided by a registered dental hygienist *or dental hygienist* in
27 alternative practice.

28 (r) (1) Paramedic services performed by a city, county, or
29 special district, or pursuant to a contract with a city, county, or
30 special district, ~~and pursuant to a program established under~~
31 ~~Article 3 (commencing with Section 1480) of Chapter 2.5 of~~
32 ~~Division 2 of the Health and Safety Code by a paramedic certified~~
33 ~~pursuant to that article, and consisting of defibrillation and those~~
34 ~~services specified in subdivision (3) of Section 1482 of the article.~~

35 (2) All providers enrolled under this subdivision shall satisfy
36 all applicable statutory and regulatory requirements for becoming
37 a Medi-Cal provider.

38 (3) This subdivision shall be implemented only to the extent
39 funding is available under Section 14106.6.

1 (s) In-home medical care services are covered when medically
2 appropriate and subject to utilization controls, for beneficiaries
3 who would otherwise require care for an extended period of time
4 in an acute care hospital at a cost higher than in-home medical care
5 services. The director shall have the authority under this section to
6 contract with organizations qualified to provide in-home medical
7 care services to those persons. These services may be provided to
8 patients placed in shared or congregate living arrangements, if a
9 home setting is not medically appropriate or available to the
10 beneficiary. As used in this section, “in-home medical care
11 service” includes utility bills directly attributable to continuous,
12 24-hour operation of life-sustaining medical equipment, to the
13 extent that federal financial participation is available.

14 As used in this subdivision, in-home medical care services,
15 include, but are not limited to:

16 (1) Level of care and cost of care evaluations.

17 (2) Expenses, directly attributable to home care activities, for
18 materials.

19 (3) Physician fees for home visits.

20 (4) Expenses directly attributable to home care activities for
21 shelter and modification to shelter.

22 (5) Expenses directly attributable to additional costs of special
23 diets, including tube feeding.

24 (6) Medically related personal services.

25 (7) Home nursing education.

26 (8) Emergency maintenance repair.

27 (9) Home health agency personnel benefits which permit
28 coverage of care during periods when regular personnel are on
29 vacation or using sick leave.

30 (10) All services needed to maintain antiseptic conditions at
31 stoma or shunt sites on the body.

32 (11) Emergency and nonemergency medical transportation.

33 (12) Medical supplies.

34 (13) Medical equipment, including, but not limited to, scales,
35 gurneys, and equipment racks suitable for paralyzed patients.

36 (14) Utility use directly attributable to the requirements of
37 home care activities which are in addition to normal utility use.

38 (15) Special drugs and medications.



1 (16) Home health agency supervision of visiting staff which is
2 medically necessary, but not included in the home health agency
3 rate.

4 (17) Therapy services.

5 (18) Household appliances and household utensil costs directly
6 attributable to home care activities.

7 (19) Modification of medical equipment for home use.

8 (20) Training and orientation for use of ~~life-support~~ *life support*
9 systems, including, but not limited to, support of respiratory
10 functions.

11 (21) Respiratory care practitioner services as defined in
12 Sections 3702 and 3703 of the Business and Professions Code,
13 subject to prescription by a physician and surgeon.

14 Beneficiaries receiving in-home medical care services are
15 entitled to the full range of services within the Medi-Cal scope of
16 benefits as defined by this section, subject to medical necessity and
17 applicable utilization control. Services provided pursuant to this
18 subdivision, which are not otherwise included in the Medi-Cal
19 schedule of benefits, shall be available only to the extent that
20 federal financial participation for these services is available in
21 accordance with a home- and community-based services waiver.

22 (t) Home- and community-based services approved by the
23 United States Department of Health and Human Services may be
24 covered to the extent that federal financial participation is
25 available for those services under waivers granted in accordance
26 with Section 1396n of Title 42 of the United States Code. The
27 director may seek waivers for any or all home- and
28 community-based services approvable under Section 1396n of
29 Title 42 of the United States Code. Coverage for those services
30 shall be limited by the terms, conditions, and duration of the
31 federal waivers.

32 (u) Comprehensive perinatal services, as provided through an
33 agreement with a health care provider designated in Section
34 14134.5 and meeting the standards developed by the department
35 pursuant to Section 14134.5, subject to utilization controls.

36 The department shall seek any federal waivers necessary to
37 implement the provisions of this subdivision. The provisions for
38 which appropriate federal waivers cannot be obtained shall not be
39 implemented. Provisions for which waivers are obtained or for
40 which waivers are not required shall be implemented

1 notwithstanding any inability to obtain federal waivers for the
2 other provisions. No provision of this subdivision shall be
3 implemented unless matching funds from Subchapter XIX
4 (commencing with Section 1396) of Chapter 7 of Title 42 of the
5 United States Code are available.

6 (v) Early and periodic screening, diagnosis, and treatment for
7 any individual under 21 years of age is covered, consistent with the
8 requirements of Subchapter XIX (commencing with Section
9 1396) of Chapter 7 of Title 42 of the United States Code.

10 (w) Hospice service ~~which~~ *that* is Medicare-certified hospice
11 service is covered, subject to utilization controls. Coverage shall
12 be available only to the extent that no additional net program costs
13 are incurred.

14 (x) When a claim for treatment provided to a beneficiary
15 includes both services which are authorized and reimbursable
16 under this chapter, and services which are not reimbursable under
17 this chapter, that portion of the claim for the treatment and services
18 authorized and reimbursable under this chapter shall be payable.

19 (y) Home- and community-based services approved by the
20 United States Department of Health and Human Services for
21 beneficiaries with a diagnosis of AIDS or ARC, who require
22 intermediate care or a higher level of care.

23 Services provided pursuant to a waiver obtained from the
24 Secretary of the United States Department of Health and Human
25 Services pursuant to this subdivision, and which are not otherwise
26 included in the Medi-Cal schedule of benefits, shall be available
27 only to the extent that federal financial participation for these
28 services is available in accordance with the waiver, and subject to
29 the terms, conditions, and duration of the waiver. These services
30 shall be provided to individual beneficiaries in accordance with the
31 client's needs as identified in the plan of care, and subject to
32 medical necessity and applicable utilization control.

33 The director may under this section contract with organizations
34 qualified to provide, directly or by subcontract, services provided
35 for in this subdivision to eligible beneficiaries. Contracts or
36 agreements entered into pursuant to this division shall not be
37 subject to the Public Contract Code.

38 (z) Respiratory care when provided in organized health care
39 systems as defined in Section 3701 of the Business and Professions

Code, and as an in-home medical service as outlined in subdivision (s).

(aa) (1) There is hereby established in the department, a program to provide comprehensive clinical family planning services to any person who has a family income at or below 200 percent of the federal poverty level, as revised annually, and who is eligible to receive these services pursuant to the waiver identified in paragraph (2). This program shall be known as the Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program.

(2) The department shall seek a waiver for a program to provide comprehensive clinical family planning services as described in paragraph (8). The program shall be operated only in accordance with the waiver and the statutes and regulations in paragraph (4) and subject to the terms, conditions, and duration of the waiver. The services shall be provided under the program only if the waiver is approved by the federal ~~Centers for Medicare and Medicaid Services~~ *Health Care Financing Administration* in accordance with Section 1396n of Title 42 of the United States Code and only to the extent that federal financial participation is available for the services.

(3) Solely for the purposes of the waiver and notwithstanding any other provision of law, the collection and use of an individual's social security number shall be necessary only to the extent required by federal law.

(4) Sections 14105.3 to 14105.39, inclusive, 14107.11, 24005, and 24013, and any regulations adopted under these statutes shall apply to the program provided for under this subdivision. No other provision of law under the Medi-Cal program or the State-Only Family Planning Program shall apply to the program provided for under this subdivision.

(5) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, without taking regulatory action, the provisions of the waiver after its approval by the federal Health Care Financing Administration and the provisions of this section by means of an all-county letter or similar instruction to providers. Thereafter, the department shall adopt regulations to implement this section and the approved waiver in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of

1 Part 1 of Division 3 of Title 2 of the Government Code. Beginning
2 six months after the effective date of the act adding this
3 subdivision, the department shall provide a status report to the
4 Legislature on a semiannual basis until regulations have been
5 adopted.

6 (6) In the event that the Department of Finance determines that
7 the program operated under the authority of the waiver described
8 in paragraph (2) is no longer cost-effective, this subdivision shall
9 become inoperative on the first day of the first month following the
10 issuance of a 30-day notification of that determination in writing
11 by the Department of Finance to the chairperson in each house that
12 considers appropriations, the chairpersons of the committees, and
13 the appropriate subcommittees in each house that considers the
14 State Budget, and the Chairperson of the Joint Legislative Budget
15 Committee.

16 (7) If this subdivision ceases to be operative, all persons who
17 have received or are eligible to receive comprehensive clinical
18 family planning services pursuant to the waiver described in
19 paragraph (2) shall receive family planning services under the
20 Medi-Cal program pursuant to subdivision (n) if they are
21 otherwise eligible for Medi-Cal with no share of cost, or shall
22 receive comprehensive clinical family planning services under the
23 program established in Division 24 (commencing with Section
24 24000) either if they are eligible for Medi-Cal with a share of cost
25 or if they are otherwise eligible under Section 24003.

26 (8) For purposes of this subdivision, “comprehensive clinical
27 family planning services” means the process of establishing
28 objectives for the number and spacing of children, and selecting
29 the means by which those objectives may be achieved. These
30 means include a broad range of acceptable and effective methods
31 and services to limit or enhance fertility, including contraceptive
32 methods, federal Food and Drug Administration approved
33 contraceptive drugs, devices, and supplies, natural family
34 planning, abstinence methods, and basic, limited fertility
35 management. Comprehensive clinical family planning services
36 include, but are not limited to, preconception counseling, maternal
37 and fetal health counseling, general reproductive health care,
38 including diagnosis and treatment of infections and conditions,
39 including cancer, that threaten reproductive capability, medical
40 family planning treatment and procedures, including supplies and

1 followup, and informational, counseling, and educational
2 services. Comprehensive clinical family planning services shall
3 not include abortion, pregnancy testing solely for the purposes of
4 referral for abortion or services ancillary to abortions, or
5 pregnancy care that is not incident to the diagnosis of pregnancy.
6 Comprehensive clinical family planning services shall be subject
7 to utilization control and include all of the following:

8 (A) Family planning related services and male and female
9 sterilization. Family planning services for men and women shall
10 include emergency services and services for complications
11 directly related to the contraceptive method, federal Food and
12 Drug Administration approved contraceptive drugs, devices, and
13 supplies, and followup, consultation, and referral services, as
14 indicated, which may require treatment authorization requests.

15 (B) All United States Department of Agriculture, federal Food
16 and Drug Administration approved contraceptive drugs, devices,
17 and supplies that are in keeping with current standards of practice
18 and from which the individual may choose.

19 (C) Culturally and linguistically appropriate health education
20 and counseling services, including informed consent, that include
21 all of the following:

- 22 (i) Psychosocial and medical aspects of contraception.
- 23 (ii) Sexuality.
- 24 (iii) Fertility.
- 25 (iv) Pregnancy.
- 26 (v) Parenthood.
- 27 (vi) Infertility.
- 28 (vii) Reproductive health care.
- 29 (viii) Preconception and nutrition counseling.
- 30 (ix) Prevention and treatment of sexually transmitted infection.
- 31 (x) Use of contraceptive methods, federal Food and Drug
32 Administration approved contraceptive drugs, devices, and
33 supplies.
- 34 (xi) Possible contraceptive consequences and followup.
- 35 (xii) Interpersonal communication and negotiation of
36 relationships to assist individuals and couples in effective
37 contraceptive method use and planning families.

38 (D) A comprehensive health history, updated at next periodic
39 visit (between 11 and 24 months after initial examination) that
40 includes a complete obstetrical history, gynecological history,

1 contraceptive history, personal medical history, health risk factors,
2 and family health history, including genetic or hereditary
3 conditions.

4 (E) A complete physical examination on initial and subsequent
5 periodic visits.

6 (ab) Purchase of prescribed enteral formulae is covered,
7 subject to the Medi-Cal list of enteral formulae and utilization
8 controls.

9 (ac) Diabetic testing supplies are covered when provided by a
10 pharmacy, subject to utilization controls.

11 *SEC. 50. No reimbursement is required by this act pursuant*
12 *to Section 6 of Article XIII B of the California Constitution*
13 *because the only costs that may be incurred by a local agency or*
14 *school district will be incurred because this act creates a new crime*
15 *or infraction, eliminates a crime or infraction, or changes the*
16 *penalty for a crime or infraction, within the meaning of Section*
17 *17556 of the Government Code, or changes the definition of a*
18 *crime within the meaning of Section 6 of Article XIII B of the*
19 *California Constitution.*

